GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 22nd March 1950

LR-2 (260)/I.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimization, wrongful dismissal, etc., of workmen of certain banking companies in the States of Punjab and Delhi.

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bank of Bikaner, Limited,
National Bank of Lahore, Limited,
Hindustan Commercial Bank, Limited,
United Commercial Bank, Limited,
Bharat Bank, Limited,
Punjab National Bank, Limited,
Allahabad Bank, Limited,

AND

Their Workmen.

In the matter of alleged victimization, applications under section 33, etc., in the States of Punjab and Delhi.

Appearances :

Mr. Jagannath Anand, Advocate, with Mr. V. S. Kapoor, for the Bank of Bikaner.
No appearance for the National Bank of Lahore.
Mr. K. N. Bhatnagar, for the Hindustan Commercial Bank.
Mr. D. R. Patney, for the United Commercial Bank.
Mr. Ram Sahai, General Manager, for the Bharat Bank.
Mr. Ram Lal Anand, with Mr. Somesh Chandra, for the Punjab National Bank.
Mr. J. R. Sharma, for the Allahabad Bank.
Mr. S. P. Kapoor of the Bank of Bikaner, in person.
No appearance for the employees of the National Bank of Lahore.
No appearance for the Hindustan Commercial Bank Employees' Union.
Mr. Dhunichand Mehra of the United Commercial Bank, in person.
Mr. H. L. Parwana with Mr. D. P. Burman, for the Bharat Bank Employees' Union, Delhi.
Mr. H. L. Puri with Mr. Madan Lal D. Sabharwal, for the Punjab National Bank Employees' Union, Delhi.

Mr. Dharam Vir Taneja, for the Punjab National Bank Workmen's Union, Delhi.

Mr. H. L. Dogra with Mr. Vidya Sagar, for the Punjab National Bank Employees' Union, East Punjab.

Mr. Dayal Das Khanna, for the Allahabad Bank Employees' Union, Delhi.

AWARD

The cases which are dealt with in this Award were heard at Dehra Dun from the 6th January to the 12th January 1950.

Two applications for retrenchment under section 33 of the Industrial Disputes Act were heard, *viz.*, those of the Bank of Bikaner and the National Bank of Lahore. In two other cases, *viz.*, in the case of certain employees of Hindustan Commercial Bank and the United Commercial Bank, the employees complained that there has been victimization and the Bank's defence was that they had to retrench the persons concerned. The cases of the latter two Banks, will, therefore, be included in the cases of alleged victimization.

BANK OF BIKANER

This Bank wants to retrench one Shri S. P. Kapoor in the circumstances stated by the Bank as follows. He is a senior clerk in the Accounts Department and holds a power of attorney. The Coimbatore Branch of the Bank required the services of a Head Clerk and Kapoor was transferred there with his consent. He was paid Rs. 100 as advance for the railway journey. He was relieved from Delhi on 21-7-1949 and he should have been at Coimbatore on 2-8-1949 after availing himself of the due joining time. The Bank, however, did not hear from him till the 6th August when they received a letter dated the 1st August from him despatched from Amritsar asking for 20 days' leave on medical grounds, a medical certificate being enclosed with the letter. It seemed that he had passed through Delhi without advising the Manager and proceeded to Amritsar without even sending a telegraphic intimation to the Bank. His action was thus held to be irresponsible and as amounting to gross negligence and disregard of the standing instructions of the Bank. The Bank, therefore, wants his services to be terminated.

Kapoor states that he purchased a ticket for Jhansi where he wanted to halt in order to see some of his relations; that at Jhansi he got severe fever and he came back to Amritsar from where he sent an application for 20 days' leave, with a medical certificate; and that on the 2nd September he got a letter from the Head office informing him that he had been suspended with effect from the 21st July, the date when he had been relieved. He further says that he had acted at Muzaffarnagar as an Accountant up to the 13th March 1949, that he had been the President of the local Union there, that at Delhi he was an active member of the Delhi Union and that he did not want to go to Coimbatore but that as he was threatened with dismissal he had agreed to go there. On behalf of the Bank it was contended that Kapoor should have produced a receipt from the Railway showing that he had brought a ticket up to Jhansi and that he should have at least given the number of his ticket and sent a telegram from Jhansi. It was further alleged by the Bank that on former occasions also he had taken leave on false pretexts, for instance, when from the 10th to the 20th July he was on leave without pay. On that occasion he had promised to send a medical certificate but he did not send it. Kapoor says that he has never taken a receipt from the Railway authorities to show that he had bought a particular ticket and that this fact can be seen from his travelling

allowance bills. As to his leave from the 10th to the 20th July he says that on that occasion he was treated at Delhi by a Hakim and that the Bank would not accept a certificate from him. It seems to us that Kapoor could not have liked the idea of going to Coimbatore, so far from his home and his province, and that for some reason the Bank ordered his transfer there as a mode of punishment. On behalf of the Bank it is stated that before the 21st July he had been called to explain three items, for two of which he expressed regret and as to the third, a clerk named Goel was at fault and Kapoor had asked Goel to give the number of a cheque in connection with the said item but did not later on see whether Goel had complied. Nothing, however, was done after getting Kapoor's explanation on the three items and it is not the Bank's case that the transfer was based on anything in connection with those items. That being so, it does not appear unlikely that the punitive measure of sending him so far from his home was taken on account of his activity as a member of the local Unions. He has said that at Muzaffarnagar he was the President of the local Union. That has not been denied. He was there till the 13th March 1949 after which he came to Delhi where, according to him, he was an active member of the local Union. It may be that because of his intense dislike for going to Coimbatore he sent his leave application on the pretext that he had fallen ill. At the same time there is nothing to show that the medical certificate sent by him is false. It seems to us that in this case the Bank was not justified in sending him to Coimbatore so shortly after he had been transferred to Delhi. We also find that Kapoor is not being paid any suspension wage since his suspension on the 21st July 1949. The proper direction in this case would, therefore, be that the application cannot be granted, that the order of suspension should be set aside and that Kapoor should be paid, within a month of the publication of this Award, the pay and allowances that he would have earned if he had not been suspended with effect from the 21st July 1949.

NATIONAL BANK OF LAHORE

This Bank had made an application to the effect that having recently closed one of their offices at Delhi and there being some surplus staff which cannot be utilised, the Bank should be allowed to terminate the services of such surplus members pending decision by the Tribunal of the bank disputes. The Bank did not appear nor did it furnish any particulars regarding the individual members of the staff who are sought to be retrenched. In these circumstances we reject the application. We now proceed to consider the cases of alleged victimization.

HINDUSTAN COMMERCIAL BANK

The Hindustan Commercial Bank Employees' Union complained that the following members of the Staff at Ludhiana branch had been dismissed :

Name	*Designation*	*Date of appointment*
Om Prakash Nayar	Clerk	10-12-1944
B. K. Chum	„	11-3-1945
K. L. Sanan	Head Cashier ..	28-12-1948
Ved Prakash	Assistant Cashier ..	13-1-1949
Sarwan Singh	Guard	10-10-1947
Rala Singh	„	14-8-1945
Kirpal Singh	Peon	1947

The Union has also complained that the following members of the staff at Ambala City have also been dismissed :

Name	*Designation*	*Date of appointment*
Gurcharan Singh	Clerk	2-4-1947
Prem Sagar	Head Cashier	21-12-1945
Jai Gopal Garg	Asst. Cashier	19-12-1947
Lachhman Das	Peon	22-4-1947
Durga Das	Guard	4-2-1949

The Bank's statement is that the offices at Ludhiana and Ambala since their very inception had been running at a loss and that the Bank's Board of Directors, therefore, decided to close both of them with effect from the 31st July 1949. Instructions were, therefore, issued that the services of the following members of the staff would be terminated after paying them a month's substantive salary in lieu of notice on the ground that they were surplus, after the closure of the two offices :

Ludhiana Sub-Branch

1. Om Prakash Nayar .. Clerk
2. B. K. Chum .. Clerk
3. K. L. Sanan .. Cashier
4. Ved Prakash .. Cashier
5. Sarvan Singh .. Guard
6. Rala Singh .. Guard
7. Kartar Singh .. Peon

Ambala Sub-Branch

1. Gurcharan Singh .. Clerk
2. Prem Sagar .. Cashier
3. Jaigopal Garg .. Cashier
4. Lachhman Das .. Peon
5. Sant Singh .. Guard

It will be noticed that the last names under the two sub-branches are different from those appearing in the application of the Hindustan Commercial Bank Employees' Union. The Bank has further stated that it was found possible to absorb Mr. Om Prakash Nayar in a permanent vacancy at the Jullundur City sub-branch where he is at present working. It was further stated that a part of the staff at the two sub-branches could be absorbed at other branches of the Bank. The Bank's statement concludes thus—

> "The decision of terminating the services of employees was taken up by us much earlier than the restriction was imposed on us, *vide* Government of India order No. LR. 2/2261 of 2nd August 1949, and the services of employees were actually terminated before this order came into force and had we been aware of it we would have certainly obtained your permission to terminate their services as we have done now in so many other cases where the employees were surplus to our requirements and therefore there was no alternative for us but to terminate their services and we do not think that this tantamounts to victimization."

Apart from the question whether in these cases the Bank should have made an application under section 33 of the Act does not appear to us that the retrenchment carried out were not *bona fide* and not necessitated by the circumstances. It is, therefore, not possible to regard these cases as cases of victimization. We, therefore, give no direction in these cases.

UNITED COMMERCIAL BANK

Dunichand Mehra.—His complaint is that he was improperly discharged on the 30th April 1949. He had been appointed on the 4th October 1944 as Assistant Cashier at the Amritsar branch. He says that during his period of service there was no complaint about his work or conduct and that even under very difficult conditions, when the communal frenzy was at its height, he attended to his work there without any break or interruption. He has further said that prior to his joining this Bank he had been working as cashier with the National Bank of India Ltd., on a post which was pensionable and that this Bank prevailed upon him to resign from the National Bank of India Ltd., (on a post which was pensionable and that this Bank prevailed upon him to resign from the National Bank of India) and to join it. He is now about 50 years old and he has a large family to maintain. He wants either reinstatement or a suitable gratuity so that he may settle down somewhere in business. The Bank states that this is a case of retrenchment as the business at Amritsar had been falling rapidly and the bank was running at a loss a part of the staff had to be retrenched and it is not found possible to absorb this employee elsewhere because the treasurers and chief cashiers would not undertake responsibility for an unknown man. The Bank has filed a statement regarding the reduction made at Amritsar which shows that instead of four Assistant Cashiers there is only one now. It is said that the Chief Cashier selected that one although he was a junior man who, accordingly, has been retained in service. The Bank has paid to Mehra its contribution to the provident fund. That being the position, though this is a hard case it seems to us that it is not possible to order reinstatement. His allegation that he was serving as a cashier in a pensionable post under the National Bank of India and was induced by this Bank to resign that post and join it has not been contradicted. That being so, it would, in our opinion, be proper to direct that the Bank should pay him, within a month of the publication of this Award, a special gratuity amounting to six months' pay and allowances, and we direct accordingly.

BHARAT BANK LIMITED

Roshnalal Sharma.—He joined in April 1946 and was Assistant Cashier. According to the Bank the treasurer at Batala branch wanted Roshanlal as one of the Assistant Cashiers but later on he did not want him and gave him notice. This matter, however, was not disclosed to the Manager. Therefore, as on 31st January 1949 Roshanlal did not turn up at the Bank, the Branch Manager wrote to him asking him to show cause why his services should not be dispensed with. Roshanlal did not reply to this letter and on the 14th February the Branch Manager wrote to him that he was considered to have vacated his post as from the 1st February 1949. As the Branch Manager was under a misconception in thinking that Roshanlal had absented himself without leave when he was staying away after getting notice from the treasurer, it would be proper to treat the Branch Manager's order that Roshanlal was deemed to have vacated his post as from 1-2-1949 as based on wrong facts and that order, therefore, cannot be allowed to stand. Roshanlal, however, accepted the notice of the treasurer and

remained absent from the Bank in accordance with the notice. He does not seem to have protested against the notice or made any representation to the Bank. Had he made such a representation the Branch Manager would not have remained ignorant of the reason for his absence. He wrote a letter to the Bank in which he mentioned the security bond under which he was entitled to be paid two months' salary if his services were to be dispensed with. There is, however, no such document with the Bank and this letter shows that he has not claimed reinstatement. That being so, this does not appear to be a case in which we should interfere.

B. S. Bowrie.—He was represented by the Bharat Bank Employees' Union. His services were dispensed with on the 17th March 1948. He had joined service on 11-12-1943. He wants reinstatement, his past dues according to Mr. B. B. Singh's Award and compensation amounting to Rs. 3,934. In his petition dated the 25th August 1949, he stated : "According to the Award (B. B. Singh's Award and its clarification), I was a workman up to July 1947." He was at Delhi in the Loans Department on 13-3-1948. According to him he used make remarks on letters, etc., and forward them to the Accountant and had no authority to pass orders. He used to file branch returns ; weekly, daily, fortnightly and monthly. He had a power-of-attorney. He had no power of inspection and he had to sit with other clerks. He was however, sent to Ajmer as Acting Manager, the Manager there having been arrested in connection with the R.S.S. movement. There he worked as acting Manager for one month and returned to Delhi on 28-2-1948 and from 1-3-1948 he again did the kind of work he used to do before. His complaint is that he was not told why his services were terminated. He, however, admits that he had borrowed money, about Rs. 400, and that a pleader's notice had come to the Bank. His work seems to have been good because when he was transferred from Kanpur to Delhi the Branch Manager of Kanpur wrote : " His work was satisfactory/very satisfactory. He is intelligent, obedient, trustworthy, honest. He is loyal to the institution." The last remark, according to Mr. Bowrie, is based on his conduct when a strike was in contemplation at Kanpur.

According to the Bank, it terminated his services with a certain amount of reluctance, because he was found to be always getting into debts. He was sent to Kanpur as an Accountant in December 1945. His salary was raised from Rs. 130 to Rs. 150. As recognition of his good work he was promoted on the 24th March 1947 as Assistant Manager. He had already been given a power-of-attorney in June 1944. After March 1947 he got financially involved at Kanpur. There were two decrees against him and his salary was attached. He was brought to Delhi in order that he might be a help to the Head Office and was appointed as a relieving officer. The Bank had once advanced him Rs. 350. In March 1948 there were claims against him from other creditors and one lawyer's notice was received from one Bhavani Chowdhuri from whom he had borrowed a certain amount. Another notice was received from the British India Publishing Company. He was called by the General Manager and told that unless he settled his financial position the Bank would not continue him in service. He admitted that his financial condition was very bad and therefore it was decided to discharge him. In June 1948 he applied for the refund of his security deposit which was refunded and he was also given his contribution to the provident fund. Mr. Bowrie says that his total liabilities in March 1948 were about Rs. 650. He has imputed no motive against the Bank and made no representation to the Bank. His present application to the Tribunal is dated the 21st August 1949. In the circumstances of this case we feel that the Bank had

sufficient reason for terminating his services and that the case does not call for our interference.

In the following cases the Tribunal has no jurisdiction the disputes having arisen after the 13th June 1949 and, therefore, no directions regarding them are given. (The numbers shown against the employees are the numbers given in the list filed by the Bharat Bank Employees' Union.)

No. 10. M. S. Satsangi.—The Union complained that he was transferred from Delhi to Ajmer branch simply because he was a member of the Union, its General Council and its Advisory Committee. Mr. Parwana on behalf of the Union has said that on the General Council there were 45 members and five members on the Advisory Committee and that out of those 38 members of the Council and three members of the Advisory Committee have been dismissed and that the other two members of the Advisory Committee, Satsangi and R. K. Bhanot, have been transferred. This, according to him, shows that the Bank was determined to break the Union by depriving it of its main leaders and officers. He produced a handbill published by the Union, dated the 7th June 1949 showing that Satsangi was one of the members of the Advisory Committee; and the transfer occurred in the next month. According to him the Bank makes far more transfers than are justified and he has contended that this clearly shows that the transfers were not based on the needs of the Bank but on the trade union activities of the person concerned. According to the Bank, however, there was a shortage of staff at Ajmer where work had accumulated and it was said that the transfer of Satsangi to Ajmer was not intended to be permanent. The transfer was, however, made after the 13th June 1949 and as such falls outside the jurisdiction of the Tribunal.

No. 12. R. K. Bhanot.—He was also a member of the General Council of the Union at Delhi. He was transferred to Ludhiana on 4-8-1949. He took leave up to 3-11-1949. The time for his joining at Ludhiana was extended up to 29-12-1949 but still he did not comply with the order. He was then told that he was regarded as having vacated his post. He had a very bad record according to the Bank. The matters complained of, that is to say, his transfer to Ludhiana and the termination of his services both took place after the 13th June 1949 and as such are not within the jurisdiction of this Tribunal.

No. 45. Murari Lal Sharma.—According to the Union he was denied leave for which he applied on 1-7-1949 even though a medical certificate was submitted This case arose after the 13th June 1949. Therefore the Tribunal has no jurisdiction.

The following cases were not pressed by Mr. Parwana, who appeared for the employees:

No. 18—Mahinder Das Jain.
No. 19—Lal Singh.
No. 20—Ram Kalap.
No. 21—Hukam Chand Jain.
No. 22—Raghubir Singh.
No. 23—R. S. Vats.
No. 24—Ram Chander, Peon
No. 26—Prakash Bahadur.
No. 28—Raghubir Singh.
No. 29—Rama Kant.
No. 30—Vijay Singh.
No. 31—Nanua, Peon.

in front of the Bank's office that the Bank authorities decided to terminate his services. It was hardly necessary, in these circumstances, to ask him to show why the Bank should not terminate his services on those grounds because those grounds were fully known to him. On the facts of this case we are satisfied that it is not one of victimization and does not call for our interference. We therefore, give no directions.

No. 2. Jokhan Panday.—This case was withdrawn by the Union.

No. 3. Gouri Shankar Puri.—He was arrested by the Police in connection with certain fraud and forgery case and was, therefore, suspended. On his being discharged by the Magistrate in September 1949 proceedings were held by the Bank on 20 heads of charges which were served on him on 18-10-49. In his letter dated the 24th October 1949 he said, "I am in no way bound to make a detailed reply to the charges of negligence levelled against me. I request you to reinstate me forthwith." As the matter was still pending before the Bank Puri was directed to submit his explanation to the Bank by 15-2-50, whereupon Mr. Parwana said that in view of this ruling he did not require any orders in this case, particularly as the case was also pending before the Chief Labour Commissioner. He, however, pointed out that Gouri Shankar was still required to attend the office though he did no work there and said that at any rate this practice should cease. The Bank agreed to stop this practice, and no directions from us, therefore, are called for.

No. 4. Ascharaj Lal Budhiraja.—According to the Union while he was an Accountant his pay was reduced from Rs. 200 to Rs. 170 though other Accountant's pay was not similarly reduced. The Bank's case against him is as follows: He was appointed in 1940 and was officiating as Accountant in 1944. In 1945 he was deputed to the National Bank of Lahore, his lien on his post in the Bank being kept. The National Bank of Lahore confirmed him as Assistant Manager and he worked in that Bank till February 1948. On his retransfer to the Bank he was appointed to his former post. His salary was fixed as if he had not gone to the National Bank of Lahore and had earned the due increments during his absence. He was, therefore, posted in the Bank on Rs. 145 per month made up of basic salary of Rs. 95 *plus* Rs. 50 the amount of the increments.

Mr. Puri on behalf of the Union said that the period of his absence from October 1945 to February 1948 was the book period and that he would have got more increments than Rs. 50, being a man of special merit. Mr. Puri cited some instances of employees who had been junior to Ascharaj Lal but were now getting Rs. 200 or more per month. It was suggested by the Union that Ascharaj Lal should have been made an Assistant Manager by this time. He joined the Bank in 1940 and one usually gets the Assistant Manager's post after about 15 years' service; and it does not appear that any prejudice has been caused to Ascharaj Lal by the Bank. There may have been cases in which persons who were junior to him have now become his senior, but though certain instances were cited by Mr. Puri, no suggestions bearing on their case were made in the original demands or in the particulars furnished to the Bank under the Tribunal's instructions, so that it is not possible to test the correctness of the assertions made regarding such cases. No case has been sufficiently made out, in our opinion, for interference by this Tribunal.

No. 5. Gurbachan Singh.—He was a clerk in the Central Office and according to the Union an active worker of the Union. His grievance is that an allowance of Rs. 10 has been denied to him for 11 months from November 1947 to September 1948. This was known as the reconciliation allowance. He

served in Pakistan and after the partition was posted to the agency section of the head office in 1947. His post carried this allowance. His work was inter-branch adjustment in this section and the posting of certain amounts and he did this work till September 1948. According to the Bank he now gets Rs. 92 *plus* Rs. 35 dearness allowance plus *Rs.* 15-5-0 as bonus. He was given the work of reconciliation of branch accounts with an allowance of Rs. 10, but was found unsuitable. The Bank has promised to see his record and if he has not been paid for such work he will be paid the amount due, though there is no written representation from him on this point. This does not appear to us to be a case for our interference.

No. 6. Ram Chand Kakar.—He served in Pakistan and was dismissed on the 27th July 1948 after 27 years' service, though he had not reached the age of 55. The Bank's case is that he joined in 1921 as a despatcher and he worked as a clerk thereafter. When his services were no longer required they were terminated after payment to him of one month's salary in lieu of notice. There is nothing against him and the Bank has promised to see if he can be accommodated. Though he had not reached the age of 55 he had put in 27 years' service. As the Bank has promised to see if he can be helped we do not think that any directions from us are necessary.

No. 9. Avinash Chander Thakur.—He was the regional Secretary of the Union and according to the Union he brought to light a fraud committed by the Bank Manager. The Bonus due to him, *viz.*, Rs. 32-8-0 was forfeited in June 1949 and the increment due to him for 1948 was not given. According to the Bank he was responsible for two debit entries for Rs. 3,325-1-0 in respect of the Gandhi National Memorial Fund when there should have been only one debit entry to the account. The Bank came to know of the mistake in time and reversed the entries, but if the mistake had not been discovered there would have been a loss of Rs. 3,325-1-0. There is no doubt that the entry was passed by one Kapoor who was a supervisor but the Bank is right in taking the view that he, being the Accountant, was responsible for all the accounts. According to the Bank the only penalty imposed was the forfeiture of the bonus, while as to the increment for 1948 it has not been stopped and is still under consideration. We think that the mistake for which he must be held responsible was a serious one and the Bank was justified in forfeiting his bonus. No directions are, therefore, necessary.

No. 13. Bal Raj Mali.

No. 14. Ram Itwari.

No. 16. Jassi Ram.

These are menials and they have not yet been confirmed. Their cases were due for consideration but nothing was done as the matter came before the Tribunal. There is, however, nothing in the Act which prevents the Bank from confirming these men and the Bank should, therefore, proceed to consider their cases. No further directions are necessary.

No. 17. Tara Chand.

No. 18. Lajpat Rai Sehgal.

These are similar cases. The Bank stated that if there was nothing against them they would be duly confirmed. We give no directions.

No. 19. Malik Udho Das.—He was in Pakistan and was discharged on 20-4-48. According to the Bank he was a nominee of the Guarantee Broker and was a godown keeper at Jhamke Mandi (Pakistan). The pay office at

which he was working was closed after the partition. On 24th April 1948 he asked for re-instatement but the District Manager said that the pay office in Pakistan showed loss and that no District Manager was prepared to take him. His provident fund including the Bank's contribution was recommended to be paid by the District Manager, but in view of certain facts this was not done. Those facts are that on 9-8-1947 he had released goods worth Rs. 17,000 pledged with the Bank on account of Messrs. Iqbal Singh Kalyan Singh & Co., in Pakistan without receiving any payment, that the Bank had been unable to realise its dues, that a charge to this effect was given to him and explanation was asked for and that his explanation, which was found unsatisfactory, was that he had released the goods against a guarantee letter of the Government's clearing agent Narayan Singh. That alleged guarantee letter has not been produced. As he was careless enough to release goods worth Rs. 17,000 without having received payment on the strength of a letter the existence of which has not been established, we cannot find that the action of the Bank was not justified. We give no directions.

No. 20. Chander Bhan Bhatia.—He has been described as a court clerk (*i.e.*, clerk who attends to litigation work). His complaint is that while he was at the head office, New Delhi, he was discharged on the 28th April without any reasons being given. Later on he was informed by the District Manager on the 10th July 1948 that he had been discharged "as you are not fit for hard work required of a Bank employee". On 11th March 1949 he asked for refund of the security deposit which was paid by the Bank together with the amount due to him out of the provident fund. The present application is dated the 19th September 1949. It is alleged by the Union that there were two court clerks. Bhatia and Suraj Mal, and that Suraj Mal is still working. According to the Bank the work of the Court clerks has fallen considerably and as there was not enough work his services had to be dispensed with. Mr. Parwana states that Bhatia was first in the Law Department, that in May 1945 he was transferred to the office of the District Manager, Lahore Circle, and that after partition he was working under the District Manager, Pakistan Circle at Delhi. In March 1948 he asked for an Accountant's post and his name was marked for such a post. But in April he learnt that his name had been placed on the 'spare' list. On the 22nd April he wrote to the District Manager that his name had been placed on the spare list "as if his services were no longer required" and he requested that he should not be discharged.

Thus it seems that the Bank dispensed with the service of Bhatia on two grounds, *viz.*, (1) that the work which he had been doing had decreased and (2) that he was not fit for hard work. On the 22nd October he informed the Bank that he was prepared to stand a medical test and to give 8 hours continuous duty as well as to compete with the other employees of the Bank and he mentioned his output as 40 letters a day when he had been in the office of the District Manager, Pakistan Circle. Mr. Anand has admitted that Chander Bhan did not leave any accumulations of work at any time; in any case the Manager had not heard of it. It was also admitted that when he applied for an Accountant's post on 8th March 1948, Mr. Sethi, Assistant to the District Manager, had given the following opinion: "Mr. Bhatia is a competent and hard working hand and I have great pleasure in recommending his case for raising his status from the senior grade clerk to that of an Accountant". The District Manager's order was, "His case will be taken up whenever vacancy for the post of an Accountant occurs." It is true that no motive against him

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has been alleged and there is nothing to show that there was any enmity or that he indulged in Union activities. According to Mr. Bhatia his duties were to put before the Manager the debtors' and clients letters in the liquidation department which was created with a Manager on special duty in September 1948. He had also to obtain orders on such letters, to write to the debtors and carry on correspondence; and he says that he did not take part in preparing cases for the Court, nor did he attend the Courts since May 1945. Mr. Parwana also produced a copy of Bhatia's letter dated 20th December 1948 addressed to Mr. Yodh Raj, General Manager and Chairman, in which he said, "I am prepared to go anywhere in India and even beyond the boundaries in India for the remaining period". Bhatia would have attained the age of 55 in 1950. He was considered competent and hard working and the allegation of the Bank made before his discharge that he was not hard working seems to be inconsistent. He was specially noted for promotion for the post of an Accountant and shortly thereafter his services were dispensed with. It is difficult to see why this was done; it seems that he has been unfairly dealt with, for *prima facie* he should have been allowed to serve till he attained the age of 55. On retirement he might have been entitled to a gratuity; and before he retired he might have even taken certain amount of privilege leave, having 46 days privilege leave due to him. It is possible that seeing that he was marked for the next vacancy of an Accountant it was in the interest of some one in the office to get him out of the way, and this might be the explanation why for apparently insufficient reasons his services were dispensed with. We think that he would be sufficiently compensated for the treatment meted out to him if he be paid six months salary and allowances within a month of the publication of this Award. We direct accordingly.

No. 22. Ram Parkash Bhalla.—According to the Union he worked at the Kashmiri Gate branch, Delhi as officiating supervisor since March 1948. His confirmation was due in March 1949 but his officiating allowance of Rs. 10 per month was withdrawn with effect from 1st April 1949. According to the Bank the Branch Manager recommended his appointment as Supervisor but this could not be given effect to as there was no vacancy, though he had officiated as supervisor on many occasions. There is nothing against him. Mr. Puri on behalf of the Union however, said that for some months he had not been paid for supervisor's work done by him, *viz.*, from 1st April 1949, till September 1949. These particulars were, however, not furnished to the Bank and the Bank is unable to verify the statement. We direct that Mr. Puri's allegation should be looked into by the Bank and that if Bhalla has done a supervisor's work without being adequately paid therefor, the balance due in respect of such work shall be paid within a month of the publication of this Award.

No. 23. Purshotam Lal Syal.—According to the Union he was an officiating Accountant at the Head Office, where he had come from Pakistan, from 16th April, 1948 and he has not yet been confirmed though there is a permanent vacancy. This according to the Union, is on account of his trade union activities. The Bank says that there is no permanent vacancy. The Officer-in-Charge (West) has ordered that Syal should continue where he is at present till a vacancy occurs. Mr. Puri says that the period of confirmation is six months and that Syal is not confirmed because he is the Vice-President of the Union. Mr. Anand on behalf of the Bank, states that he is officiating in a non-permanent department, *viz.*, the Pakistan Department, that on 29th October, 1949, the District Manager reported that he had become 'spare', giving facts and figures,

but that Secretary West ordered that he should continue where he was. The rule as to confirmation in six months came into force in November 1949; before that the period was one year. We direct that as soon as there is a permanent vacancy Syal shall be confirmed subject to any existing rules regarding confirmation.

No. 24. Gurdas Mal.—He was a peon at the Head Office at Delhi and it is alleged that the annual increment which was due to him on 25th May 1949 was not granted to him on the ground that he had attained the maximum. At that time the maximum pay for a peon was Rs. 39; now it is Rs. 40, in the scale Rs. 25—$\frac{1}{2}$—40. Mr. Puri said that another peon named Dubri was getting Rs. 41 *plus* a Jamadar's allowance. This particular, however, was not furnished to the Bank when the employees were required to furnish the necessary particulars to the Bank to enable it to reply. That being so it cannot be said that the man has any real grievance, and no directions are necessary.

No. 44. *Madan Lal Sabharwal.*—The complaint is that his basic pay since his transfer from Karachi has been reduced. But according to the Bank he was getting at Karachi basic pay of Rs. 55 *plus* Rs. 15, besides Rs. 28 (40 per cent of Rs. 70) as an emergency allowance given to persons serving in Pakistan after the partition. He was given a further increment of Rs. 15 *plus* 40 per cent thereon in consideration of the fact that he was discharging, when at Karachi, double duty in the office and assisting the Manager in the work of evacuation of the staff of the Bank in Pakistan. Thus in Karachi he got Rs. 119 per month when he came to the head office in Delhi he was paid his substantive salary Rs. 70 (Rs. 55 *plus* Rs. 15) and from 1st May 1948 he was granted an increment of Rs. 3 according to the rules of the Bank. He also got a local allowance at Delhi of Rs. 10 along with the other employees. Thus he got altogether Rs. 83. He was promoted to the Senior Grade with effect from 1st May 1949 getting an increment of Rs. 5, and thereafter an *ad hoc* increase in his emoluments of Rs. 7, which was given to all clerks at Delhi, was also granted. Therefore his emoluments, apart from dearness allowance, came up to Rs. 95. He has individually made no representation to the Bank. All that Mr. Parwana could say was that he had done his work under considerable pressure and had to attend to a large number of matters like the granting of loans, staff matters and confidential reports and that he had saved a large number of persons at the risk of his life in Karachi and that, therefore, a promotion of Rs. 100 was recommended in his case, while the head office granted Rs. 15 only. We do not think that he should have any real grievance and we do not wish to interfere.

We now proceed to deal with certain issues which were heard at Dehra Dun because they related to questions peculiar to the Banks and their branches in the East Punjab and Delhi.

Issue No. 29 in the Government Order.—The Union concerned states that the three peons mentioned in the notification have now resigned, so there is nothing left for the Tribunal to do.

Issue No. 15 (*b*).—Mr. Anand for the Punjab National Bank stated that on the 1st January 1945 the Bank took out a Fidality Guarantee policy, in two parts, from the National Security Assurance Company, in respect of officers and non-officers, the Bank paying the premium. The policy was renewed in 1946 and 1947. During these three years a number of cases of defalcation and misfeasance occurred involving a loss of about 10 lakhs of rupees. The whole amount was recovered from the Assurance Company. Thereafter the Company refused to renew the policies. Therefore on the 27th January 1948

a scheme was devised by the Bank under which (1) the security amounts required from the employees who had to provide guarantees were raised (for peons to Rs. 1,000, daftaries Rs. 2,500 and clerks Rs. 5,000), and (2) where the security for such large amounts could not be found such employees were to contribute to a Guarantee Fund, the contributions being annas 4 per month for peons, annas 8 per month for daftaries and Re. 1 per month for clerks. The Bank contributed like amounts. Trustees were appointed; one of whom was a senior member of the staff. No contributions were refundable. In case there was a loss due to dishonesty, etc., it was to be recovered from the cash security of the person in question and his property and thereafter from the Bank's contribution to the Provident fund of the person in question and lastly from the Guarantee Fund. In the Reserve Bank, however, where there is a Guarantee Fund, the workmen get back their contributions, but the Bank does not contribute anything to the fund. The employees wanted such a provision to be inserted and accordingly the Bank amended the scheme. The amendment provides that on termination of services or transfer to an appointment where guarantee is not required, if there be any amount to the credit of a person, a bonus would be paid and that such bonus would be in the same proportion to the amount standing to the credit of an employee as that which the fund of the group to which the person belongs bears to the aggregate amount standing to the credit of the members of the group in their individual accounts. The Bank continues to pay its own contribution to the fund. There is a further provision that an amount equal to the bonus paid is to be paid to the Punjab National Bank Employees' Association for benevolent purposes in aid of employees, their widows and orphans, etc. This part of the scheme is objected to by the employees. It is said that as a consequence of the introduction of the Guarantee Fund the losses of the Bank have become considerably less. In 1949 they amounted to only Rs. 13,000 and in 1948 to a still lesser amount. On the introduction of the amended rules the security amounts required have now been reduced. For clerks, for instances, they have been reduced to one month's substantive salary.

Mr. Dharam Vir Taneja for the Punjab National Bank Workmen's Union said that the scheme would penalise the majority for the faults of few and was objectionable in other ways also. Mr. H. L. Puri of the Employees' Union wanted the matter to be argued again at Bombay; but none of the representatives of the employees, could suggest a better scheme than the one introduced by the Bank.

A good deal of arguments have been advanced before us at Bombay on the question of the pension and guarantee fund, on behalf of the Imperial Bank of India. Mr. Singh of the Punjab National Bank has joined in the discussion on behalf of his Bank. Three main objections have been raised on behalf of the employees. The first related to the absence of a provision as in the Reserve Bank that the workmen were to get back their contributions. That objection has been met in this Bank by the amendment which I have referred to above. The second objection is as regards payment of an amount equal to the bonus to the Punjab National Bank Employees' Association for benevolent purposes, as it is not clear whether the said Association is representative of a majority, or even a large number of the employees of the Bank. The objection appears to us to be valid. At Dehra Dun the Bank did not take up the question, as in the case of the guarantee fund of the Imperial Bank of India at Bombay, that the fund being a trust property was beyond the jurisdiction of the Tribunal. It would seem, however, that the trustees of the fund in this case do not constitute an independent body, though there is a provision that the fund

should vest in trustees, but that they are subject to the superintendence and control of the directors, at least to a large extent. That is probably why Mr. Anand for the Bank did not raise the question of jurisdiction. In any case we recommend that the provision regarding the payment of an amount equal to the bonus to the Punjab National Bank Employees' Association should be deleted and that the said amount should be put into a separate fund for benevolent purposes in aid of employees, their widows, orphans and dependants to be administered by a Committee consisting of an equal number of persons nominated by the Bank authorities and persons nominated by the employees; and the latter nomination should be made at a meeting held once in three years by persons elected for the purpose at meetings previously held by the employees at the head office as well as by those at the branches, irrespective of the Association of Unions to which they may belong.

Issue No. 16.—This issue concerns the recognition of (i) The Punjab National Bank Employees' Union (East Punjab), (ii) The Bharat Bank Employees' Union, Delhi, and (iii) The United Provinces Bank Employees' Union.

(i) *The Punjab National Bank Employees' Union (East Punjab).*—It was pointed out that the term 'recognition' was used probable for the first time in the Trade Unions (Amedment) Act, 1947, and that the Act had not yet been brought into force. The Union wanted recognition in the sense used in the Act with the consequences stated in the Act, and in any case, it contended that its claim for recognition constituted an industrial dispute. It was, however, found that the Union had not complied with the provisions of section 28 D, clause (d), of the said Act under which, if the Act applied, its rules should provide for the procedure for declaring a strike. It seems to us that it would not be proper, in such circumstances to direct although the Trade Unions (Amendment) Act, 1947 has not yet been brought into force the Bank should recognise the Union in the sense used and with the consequences stated in that Act.

(ii) *Bharat Bank Employees' Union.*—This Union was recognised by the Bank on the 11th November 1948 but the recognition was withdrawn on the 7th December 1948 during the strike declared by the Union. The Union has 455 members out of a total body of 3,000 workers of the Bank. Mr. Parwana tried to show that the Union was confined to the Delhi employees, but the constitution of the Union says that it is open to all employees of the Bank. That being so, even if the Trade Unions (Amendment) Act, 1947, applied to condition (b) stated in section 28 (D), *viz.*, that the Union should be representative of all the workmen employed by the employer, has not been fulfilled. Condition (d) in the said section also has not been satisfied. All that the President of the Union could show was that on the 11th January 1949 the General Council had passed a resolution that a strike should be resorted to as a last measure and that it might be declared jointly by the President and the Secretary. This cannot be said to constitute the provision of sufficient procedure for declaring a strike in the rules of the Union. For such a rule should at least provide for the giving of a notice to the Bank, the period of such notice and consideration of any action taken or proposed to be taken by the Bank. Even if, therefore, the Trade Unions (Amendment) Act applied recognition of the Union could not have been directed. We, accordingly, reject the demand of the Union.

(iii) *United Provinces Bank Employees' Union.* –There was no representative of the Union present and at Lucknow the Union's representatives expressed their desire that their case or recognition should be taken up at Bombay. No orders, therefore, need be made in this behalf in this Award.

The Allahabad Bank Employees' Union.—This union also claimed recognition though that Union is not mentioned in Schedule II to the Government Notification of the 13th June. Its membership is 106 out of a total staff of 160, so that it is no doubt representative in character. The Union representative read out a passage from an Award by Mr. S. P. Varma on an industrial dispute between Messrs. Talcher Coal Fields Ltd., and their workmen, wherein he has referred to the remarks of the adjudicator in a dispute between Messrs. Robert McLean & Company, Ltd., and their employees, published by an order of the Government of West Bengal, dated the 22nd January 1948 in the Calcutta Gazette. The learned adjudicator had observed that "nothing but advantage can accrue to the Company by recognising the Union" and he had directed that the Company should recognise the Union. Following this decision Mr. Varma stated in the dispute before him that the Company had not been able to substantiate its charge that the Union was indulging in illegal strikes and the Company could not disprove the fact that the Union counted among its members the majority of the workers, and he, accordingly, directed that the Union should be recognised. Mr. Dayaldas for the Union admitted that the Union had made no rule as required by section 28D, clause (d), of the Trade Unions (Amendment) Act, 1947. In this case also, therefore, the Bank cannot be directed to recognise the Union.

The Allahabad Bank Employees' Union, Delhi Branch, claimed overtime allowance for the extra work the workmen had put in at the half-yearly closing of the Bank on the 31st March 1949. They were entitled to such allowance for working after 7-30 P.M. on that day. Mr. Dayaldas on behalf of the Union said that the management had kept a sum of Rs. 250 for overtime allowances, but that the allowances calculated on the number of extra hours actually put in amounted to about Rs. 350, that the management tried to persuade the workmen to reduce their claims but that on this suggestion being refused Murarilal, Assistant Accountant, who had been deputed to supervise the overtime work, made remarks on the attendance register reducing the number of hours of work showing against the names of the workmen concerned. It was said that instead of sitting in the Bank for the whole of the night when the work was going on Murarilal left at 6 or 6-30 P.M. According to Mr. Dayaldas an allowances of Rs. 261-6-10 was offered to the workmen but all of them, except six men, refused the offer.

As to the facts Mr. Amarnath Khanna, Accountant of the Bank, who ordinarily would have supervised the overtime work, was examined. He said that owing to his illness his assistant Murarilal was deputed for the supervision work. At first he denied the allegations made by Mr. Dayaldas but later on stated that the evidence given by him earlier was incorrect, and that the workmen's claim based on the original timings as shown in the register was correct. We, therefore, direct that the workmen's claim to allowance for extra work on 31st March 1949 should be paid according to the hours originally shown in the register kept for the purpose.

The workmen of the Bharat Bank who struck work during the period from 3rd December 1948 to 9th December 1948 and from 9th March 1949 to 20th March 1949 have claimed that they should be paid their full wages and allowances for the said strike periods. According to Mr. Parwana on the 4th October demands were made to the Bank authorities but nothing was done and on the 22nd October a reminder was sent but there was no reply. On the 3rd November there was another reminder in which it was said that unless a reply was received by the 10th November there would be a strike ballot and that the Union

would carry out the mandate received with effect from the 3rd December 1948. To this also there was no reply. A number of people were, however, transferred, for instance, the President was first sent to Nagpur and then to Sadarbazar, Delhi, and then to the office of the District Manager, Punjab Circle. Badri Nath a member of the Working Committee was transferred to the Batala branch and A. C. Chauhan, a founder member of the Union, was transferred to Nagpur and from there to the Punjab Circle. All this, according to Mr. Parwana, was an attempt to harass and weaken the Union. On account of this harassment notice of an earlier strike was given and that strike commenced on the 11th November 1948. On that day, after one hour's strike, the Union was recognised by the Bank and an assurance was given in writing that there would be no victimization. On the 27th November 1948 the Negotiating Committee met the authorities, but with no result. Therefore a strike was commenced on the 3rd December 1948. The matter having been referred to the Chief Labour Commissioner the dispute was referred for adjudication on the 9th December and under section 10(3) the continuance of the strike was prohibited whereupon it was called off. That is the version of the Union of the events leading up to the strike which commenced on the 3rd December. Mr. Anand for the Bank has contended that there was no reason for the strike at all as on the 8th November 1948 the Bank issued a circular to the effect that the question of emoluments would be considered and if given would be given with effect from 1 10-1948, so that after this day the Union as such should have had no grievance, their main demand being for greater emoluments. But still, he said as Mr. Parwana had been transferred the strike was actually commenced on the 3rd December. This is apparent, according to Mr. Anand, for on the 10th November 1948 the Union gave a notice which referred to Mr. Parwana's " victimization " and stated that its demands must be satisfied by the same evening, which was an impossible demand. On the 29th November the Bank wrote a letter to the Union saying that at the meeting between the Union and the Bank authorities a new demand had been presented that no one who was on the Working Committee should be transferred, all its members being indispensable to the Union, that the Bank had suggested a reference on this question to the Labour Commissioner, and that to this suggestion the Union had not agreed. The circular of the 8th November was given effect to on the 29th November 1948 and on the latter date the Labour Commissioner was informed of this. On the 2nd December the Bank also wrote to the Director of Industries and Labour as to what had taken place. On the 7th December 1948 the Bank's recognition of the Union was withdrawn and on the same day the Bank intimated to the staff that the management was prepared to pay them salary for the strike period if those who had gone on strike rejoined their duties by the 8th December 1948. Therefore, according to Mr. Anand the Union was not justified in going on strike. After the letter of the Bank dated the 29th November the Union in their letter dated the 2nd December 1948 wrote, " The Union considers your charges as false, vexatious and malicious " and " we shall reply in detail later on ". No such reply however was given.

The main contention of the Bank was that as on the 29th November the emoluments were revised with effect from 1-10-1949 the Union had no legitimate ground for going on strike. The Bank also appears to be correct in the statement that at the meeting which took place between the Bank authorities and the Union on the 27th November the Union put forward a new demand which had not been made before. It seems to us that merely because the President had been transferred elsewhere and this new demand was not granted the Union was not justified in going on strike on the 3rd December. We, therefore, do not

think that for the period of the strike the workmen should be allowed their emoluments.

As to the strike from the 9th March to the 20th March 1949 we have already stated in our award regarding the victimization cases relating to this Bank that neither the Union nor the Bank was free from blame in respect of the facts leading up to the strike. We have, however, given a direction as to the reinstatement of such of the persons as were discharged and allowed them relief as to pay and allowances for a certain period. We are unable to hold that any further relief should be granted for the period of the second strike.

K. C. SEN,
Chairman,

J. N. MAJUMDAR,
Member.

BOMBAY;
Dated the 22nd February 1950.

(*Vide* Gazette of India Extraordinary, dated March 23, 1950, pp. 1071—1094.)

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(9)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 4th April 1950.

No. LR-90 (8)/I—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. D. J. Ladha of the Laxmi Bank Ltd., Akola (Madhya Pradesh):

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

The Laxmi Bank, Limited Akola

AND

D. J. Ladha.

In the matter of alleged victimisation.

Appearances.—Mr. B. S. Agarwal, Assistant Secretary, Laxmi Bank, Ltd., for the Bank,
Mr. D. J. Ladha in person.

AWARD 270

The following case of alleged victimization was heard at Nagpur on the 11th March 1950 :—

The complaint of Mr. D. J. Ladha, a clerk dismissed from the Head Office of the Laxmi Bank at Akola on 8-1 1949 was as under : He had been confirmed as a clerk in 1945. In January and February 1947 he tendered his resignation thrice, but the resignation was not accepted. In January 1947 the Central Bank, Akola branch, had offered him a cashier's job. In one of his applications he stated that being unwilling to work in the record *Khata* which had been assigned to him he wished to resign. Some time later he wanted an advance from the bank but when it was refused he left the office on 13-6-1947, as he was roughly and discourteously treated and told to leave the office. He never came back to office. Five days later he wrote to the bank that he could not return to duty unless he was asked to rejoin. On 8-1 1948 he received orders that his services had been terminated with effect from 5-7-1947.

The Bank's case is as follows : He was an unwilling worker, quarrelsome and often insubordinate. On 13-6-1947, when his request for an advance was turned down, he created an unpleasant scene and had therefore to be told to leave the office. This did not mean he was told never to come back to office again. He remained absent till 27-6-1947 and thereafter attended office till 4-7-1947. From 5-7-1947 he never cared to attend, apparently because he tried to get jobs elsewhere. In 1948 he got a job in the Rajasthan Printing Works where he worked for 3 months. He is now working in the firm of Messrs. Suganchand and Co. The bank authorities waited for his return till 8-1-1948 (more than six months) and then passed orders regarding termination of his services as he could not be shown indefinitely as an absentee clerk.

Ladha denied that he ever attended office after 13-6-1947. But the Bank's muster roll clearly shows his signatures against June 28 and 30 and July 2 to 4 (June 29 and July 1 being holidays). In his letter of 18-6-1947 to the bank he said that unless he got any reply he would be "constrained to take legal refuge", but he never did so. He admits that there was an exchange of "hot words" between himself and the Secretary of the bank on 13-6-1947 when the bank authorities refused him an advance on the ground that it was a matter within their discretion. According to Mr. Agarwal, Assistant Secretary of the Bank, who appeared before the Tribunal, the Secretary told him (Ladha) to go to his chair, he went there shouting all the time, and when Mr. Agarwal told him to stop shouting he said, "I shall see how the Secretary refuses me an advance", whereupon he was told, "Either get out of the office, or a peon will be told to take you out of the office", after which he went out shouting.

Ladha admitted that he saw the General Manager after 18 6-1947 and that the General Manager had no grudge against him, but says that he did not get the bank's letter of 8-1-1948 informing him that his services had been terminated. The bank's despatch register, however, includes this letter among the letters despatched on that day. Ladha further says that he went to see the General Manager (who signed the order regarding the termination of his services) to discuss matters unconnected with his present grievance. He said finally that the bank had been indulging in malpractices, that he discovered this and brought it to the General Manager's notice and that he was, therefore, got rid of. At the same time he admits that none in the bank took him to task or threatened him on this account and says that he has not spoken of this matter to anybody but the General Manager up till now.

It is clear that this is not a case in which we should interfere. Ladha clearly went back to his work after 27-6-1947 and attended office thereafter upto 4-7 1947. Why he absented himself for over six months thereafter is not clear; he was probably looking for a job. In any case even though he was told to leave the office on 13-6-1947 it cannot be said that he was ordered not to return to it or prevented from returning, as the fact that he did attend on 28-6-1947 and subsequent days sufficiently shows. It is clear that all his statements cannot be regarded as reliable, and the *bona fides* of the bank are sufficiently shown by the fact that no order against him was passed for over six months after 5-7-1947 from which date he absented himself. We do not think that this is a case in which we should interfere. We, therefore, make no directions in this case.

(Sd.) K. C. SEN,
Chairman.

(Sd.) J. N. MAJUMDAR,
Member.

(Sd.) N. CHANDRASEKHARA AIYAR,
Member.

BOMBAY:
Dated the 24th March 1950.

S.C. AGGARWAL,
Deputy Secretary to the Government of India.

(*Vide* Gazette of India, Part I, Section 1, dated April 15, 1950, pp. 64-65)

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(10)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th April 1950.

No. LR-90 (9)/I.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. T. P. Malaviya of the Bharat Bank Ltd.

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BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bharat Bank, Limited

AND

T. P. Malaviya

In the matter of alleged victimisation.

Appearances :

Mr. R. N. Seth for the Bank

Messrs. J. N. Mehrotra, K. C. Gupta, A. C. Kakar, Harmangal Prasad, S. D. Misra, Padamchand, K. N. Mehrotra, Bukumchand and R. M. Tandon of the U. P. Bank Employees, Union for Mr. T. P. Malaviya.

AWARD

The above case was heard at Lucknow on the 23rd December, 1949.

Malaviya was working as a Sub-Manager of the Lucknow Chowk branch of the Bank. This branch ceased to exist on the 14th August 1948 and his services were transferred to the Hazaratgunj branch at Lucknow. On the 6th October 1948, he was transferred to the Kanpur branch as an Assistant Manager. Although this order was in contravention of the U.P. Government order No. 5890 (ST) XVIII-142 (ST) 48, dated the 23rd September 1948 he did not take any exception to it as he was an old employee and he joined the Kanpur branch on the 5th November 1948. From there he was sent to Fatehpur where he worked as Controller of Shree Maheshwari Rice and Oil Mills. He protested unsuccessfully to the Bank against this transfer. He then made a representation to the Labour Commissioner, but as he got no reply till the 10th November 1948 he proceeded to Fatehpur. While working at the Mills he fell ill and went on leave on the 24th January 1949. While on leave he made several representations to the Bank authorities pointing out difficulties in working in the Mills and he wanted a transfer to Bank work, but without any result. As another man was posted in his place at the Mills, he enquired about the place where he should join on the expiry of his leave but he got no reply. He then again made a representation to the Labour Commissioner who expressed his inability to interfere as he had accepted the post of Controller of the Mills. As soon as the Mills were closed, while he was still on leave, he got a letter from the Bank dated the 12th May 1949 intimating him that in view of his unsatisfactory work it had been decided to terminate his services. On receipt of this letter he wanted to know in what respect his work was found unsatisfactory and under what rule such drastic action had been taken, but he received no reply. It is contended on his behalf that though his designation was that of a Controller he was only to look after the storage and delivery of the stock which duty could be performed by the godown keeper. His complaint is that he was given no particulars of

the grounds of his dismissal nor was he afforded any opportunity to offer any explanation, and that his services have been dispensed with, leaving a blot on his record, at a time when, due to his age, it is difficult for him to secure another job. He has asked for various reliefs.

The Bank has filed a statement and contended that he was an Officer and, therefore, the Tribunal has no jurisdiction, that while he was Sub-Manager at the Lucknow Chowk branch his work was found unsatisfactory, in that on one occasion owing to his negligence an outward bill for collection for Rs. 278-4-6 was paid twice over to the customer, that when the Chowk branch was closed he was temporarily attached to the Hazratgunj branch to settle the outsanding matters of the Chowk branch and that when those were settled, though he became a surplus hand, in order to keep him in appointment he was transferred to Kanpur as Assistant Manager. It is further stated that as he took leave he was deputed to act as Controller of the Mills because an experienced man was necessary there; and that after working there for a few weeks he took leave from time to time and went on requesting the Bank for his transfer to Kanpur or Lucknow. It thus appeared to the Bank that either he was unwilling to discharge the duties entrusted to him or his health was too poor; and his services were, therefore, dispensed with after giving him one month's salary in lieu of notice.

If we consider the reasons mentioned in the Banks' statement (which were not stated in the letter of dismissal) as reasons for the dismissal we are constrained to come to the conclusion that they are not the true reasons, or even if they were, dismissal on those grounds cannot be justified. The unsatisfactory work alleged in the statement of the Bank was the payment by him of Rs. 278-4-6 twice over to a customer when he was the Sub-Manager of the Lucknow Chowk branch. The fact that he was continued in employment at Hazaratgunj and Fatehpur, although he is now stated to have become a surplus hand, sufficiently negatives the Bank's case, in our opinion, about his alleged unsatisfactory work. The Bank admits that he was retained on account of his experience. His repeated request for transfer to Bank work, which in our opinion was a legitimate request, did not find favour with the management, his approach to the Labour Commissioner in respect of this matter was not liked by it and there might be other reasons of which we are not aware; these appear to have led to his dismissal on the pretext of the unsatisfactory nature of his work. It would be pertinent to point out that the Bank did not supply him with any particulars when he enquired about the alleged unsatisfactory nature of his work.

Our attention has been drawn to a typed letter dated the 10th November 1948 addressed by the Manager appointing him the Controller of the Mills wherein it has been stated that his designation in bank services remains unchanged. He has stated that when he was transferred to Kanpur as Assistant Manager he did not hold an independent charge of the office with powers to appoint and dismiss any employee of the Bank, that he had the power merely to supervise the office routine and as such he was a workman as defined in the Industrial Disputes Act, and that similarly as Controller of the Mills he was not given complete charge of the Mills but had simply to supervise storage and delivery of the stocks and as such he was a workman. The Bank, on the other hand, has stated that when he was transferred to Kanpur and posted as Controller of the Mills his designation and remuneration remained those of an officer. But the Bank has not disputed his statement about the nature of the work that he had to do either in his capacity as Assistant Manager of

Kanpur or as Controller of the Mills. At the bottom of the letter of the 10th November 1948 already adverted to, there is something in writing in the nature of an acknowledgment over the signature of Malaviya. It has been alleged on his behalf that this writing is a forgery and that it was not in existence when Malaviya put his signature to this letter. We do not think that this writing has any direct bearing on the question we are considering and the view we have taken about jurisdiction. It does not, therefore, appear to us necessary that we should express any opinion as to this writing. No evidence has been adduced on behalf of either of the parties to prove the nature of Malaviya's duties. We have, therefore, to proceed on the statement on record, and we do not find that the allegation of Malaviya as to the nature of his duties has been disputed by the Bank. We are inclined to hold that he was a workman. Accordingly we direct his reinstatement within a fortnight from the date of the publication of this Award and further direct that he shall be paid, within the same period the salary and other allowances he would have earned during a period six months.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA AIYAR, *Member.*

BOMBAY :
Dated the 30th March 1950.

S. C. AGGARWAL,
Deputy Secretary.

(Vide *Gazette of India*, Part I, Section I, dated April 22, 1950, pp. 87-88).

NOTE.—Original copies of the awards, which have been submitted to the Government of India but not yet published have been put (only in the first copy) in Appendix IX to the award. One copy each of Tribunal's order's in respect of section 33 matters has been put in Appendix IX to the award (only in the first copy).

[No. LR. 90(43).]

K. N. SUBRAMANIAN, Joint Secy.

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No. 32—Puran, Peon.
No. 33—R. B. Saxena.
No. 34—Madan Lal Sharma.
No. 35—S. R. Gupta.
No. 36—Labhu Ram.
No. 37—K. L. Gupta.

These are all cases of transfers and on its being pointed out to Mr. Parwana that the Tribunal would not ordinarily interfere with such transfers if it did not involve any hardships, he did not press these cases.

No. 39—L. K. Neyogi.
No. 40—Hem Chand Jain.
No. 43—R. K. Bahl.
No. 44—R. N. Malhotra.
No. 46—Harparshad.
No. 47—Peons at Darya Ganj Branch.

These are alleged cases of harassment but they were not pressed by Mr. Parwana.

We now proceed to deal with cases which were argued before us.

No. 1. Bachi Ram.—He has now been reinstated and so no orders are necessary in his case.

No. 2.—Tarachand.—He was a peon and was dismissed on the 5th April 1949 from the Subzimandi branch. The letter of discharge dated the 5th April 1949 says, "You are discharged for insubordination and disobedience. Your security deposit stands forfeited to the Bank." The Bank's case is that he was found guilty of stealing a pair of *dhoties* belonging to a clerk and that he was absent without permission. These two matters were reported to the Head Office and in the meanwhile he was told to pull *pankha* but on his refusal he was dismissed. The order now suggested on behalf of the employee is that if he applies to the Bank for the refund of the security deposit the same should be paid to him. As he has already been sufficiently punished by dismissal it does not seem necessary that he should be further punished by the forfeiture of his security deposit. We, accordingly direct that it should be paid back to him on his application to the Bank.

No. 3. Narain Parshad.—He was dismissed but having made an apology he has been reinstated. No directions are, therefore, called for.

No. 4. Tilak Raj Arora.—He was absent without leave in 1948. He joined on the 29th March 1947. In 1948 he took 148 days' leave and in 1949 up till May he took 34 days' leave. Since the 31st May 1949 he has remained absent, all leave due to him having been exhausted by June 1949. Since July 1949 he was on leave without pay which was sanctioned up to 8th November 1949. After that he has neither resumed duty nor applied for leave. On the 25th November 1949 he was informed that he was considered to have voluntarily vacated his appointment as from the 9th November 1949. We do not think that this is a case in which we should interfere.

No. 5. Bhagwandas Sharma.—He was transferred to the Ajmer branch on the 15th May 1949 and on the 16th May he asked for the cancellation of the transfer, but this was not done. Thereupon he applied for leave from the 16th May to the 30th May on the plea of his wife's illness and the leave was granted. On the 29th May, he was informed that he should join at Ajmer. Till the 4th

June he did not join there. On that day he was informed that he was considered to have vacated his appointment. On the 22nd June he applied for his salary for 14 days in May which was due to him.

Mr. Parwana says that there should have been a charge sheet as there was one even in the case of the thieving peon Tarachand. He further alleges that Bhagwandas Sharma wrote to the Bank asking for further leave and that the Joint Secretary of the Union saw the leave application being posted. He thinks that this letter has been suppressed by the Bank. On the 22nd June he entrusted his case to the Union which presented its demand on the 4th October 1948. According to Mr. Parwana, Bhagwandas was warned not to participate in the Union's activities. He was transferred to Saharanpur, then to New Delhi and then to the Head Office and again to Ajmer when, his wife was seriously ill.

This is a case in which the employee has been taking leave again and again and when he was transferred to Ajmer he evidently had no inclination to go there. There is nothing to substantiate the statement made by Mr. Parwana that Bhagwandas applied to the Bank for leave after the 30th May, and he must have known that he had asked for a good deal of leave from time to time and that the Bank would not ordinarily be inclined to grant him further leave. In the circumstances of this case it seems to us that this is not a case in which we should interfere.

No. 6. Rajeshwari Prasad Sharma.—The Bank's case against him is that he joined on 1st August 1945, that he was transferred to Bulandshahr branch on the 1st April 1946, that his services there were far from satisfactory and that as he continued acts of gross disobedience and impertinence he was suspended from the 24th March 1947 by the Branch Manager. The Head office, however, took a lenient view and transferred him to Subzimandi branch. There also his work was found unsatisfactory and he was irregular in attendance. It was, therefore, decided to terminate his services and a notice was sent to him on the 15th September 1948 and he was relieved on the 16th October. On the 11th January 1949 he asked for the refund of his security amount which was granted.

Mr. Parwana says that there was no charge in this case and he was never warned at Subzimandi branch. The notice of the 15th September merely refers to "unsatisfactory work." On the 8th November 1948 Sharma wrote to the Manager of the Subzimandi branch stating that he had never been given any warning before. It has not been alleged that this employee has been victimized owing to his trade union activities and it has not been shown that the allegations made by the Bank about his acts of gross disobedience and impertinence are false or incorrect. When he was suspended he could not have been ignorant of grounds on which he was suspended, nor is it likely that when he committed acts of disobedience and impertinence nobody in the office ever told him about such acts. Mr. Parwana has not said that no such acts were committed by Sharma. We do not think that we can interfere in this case.

No. 7. Samat Lal Jain.—He was a senior clerk at the Hathras branch. The post was abolished and he was transferred to the head office in March 1948. On the 6th April 1948 he was posted to the Subzimandi branch. According to the Bank he was very irregular in attendance; from the 12th April to the 20th April 1948 he was no privilege leave; from the 29th April to 2nd May he was again on privilege leave and he was on sick leave from the 3rd

May to the 2nd June and again from the 3rd June to the 5th June. Thus he was continuously on leave between the 12th April and the 5th June. Again he took sick and casual leave in July and August and from the 13th October 1948 he was absent without leave or intimation to his office, which was against the Bank's instructions, particularly as he was the holder of a power-of-attorney. On the 22nd October he was dismissed as from the 13th October. On the 5th January 1949 he applied for dearness allowance and this was paid to him.

According to the Union he sent his leave application with a medical certificate on the 15th October, having already been given leave for the 13th and 14th October. 15th October was a holiday. In his application on the 16th October he stated, "In continuation of my two days' leave", etc., The application was received by the Bank and was sent to the Head Office which received it on the 21st October. On the 16th October the Branch Manager wrote to the Head Office suggesting his dismissal and the Head Office thereon also wrote on the 21st October that he should be dismissed. As to the leave application of the 16th October the Head Office wrote to the Branch Office, "As he was away from the 13th to 17th without leave, we cannot alter our decision." Mr. Parwana has contended that in this case also there ought to have been a regular charge sheet, but there was none, nor was any opportunity given to Samat Lal for explaining his conduct. It seems that on the 16th October, before the leave application was received by the Branch Manager, the latter had written to the Head Office suggesting that he should be dismissed, apparently owing to his being absent without leave or intimation to the office from the 13th October 1948 and in view of the number of occasions when he had taken leave during the year. Samat Lal could not have been himself unaware of the fact that he had taken leave so frequently; and as it is not the Bank's case that he used to take leave on false pretexts but that it is very inconvenient to have an employee who takes so much leave and with such frequency, there was in reality very little for him to explain. Even before the Tribunal no attempt was made to show how the Bank would be expected to keep in service a man who required leave so frequently and for such a long aggregate period. The Bank did not receive the alleged application for leave for the 13th and 14th October, and simply because Samat Lal stated in his application of the 16th October "in continuation of my two days' leave" it cannot be held that such leave had necessarily been granted. The Bank had been consistently granting him leave, whenever he had been asking for it in the past and it seems unlikely that the Bank has suppressed the fact that leave for 13th and 14th was duly given. In the circumstances it seems to us that the Bank had sufficient grounds for dispensing with the services of this employee and do not wish to interfere.

No. 8. Ratan Lal.—He was a clerk and was dismissed on the 27th November 1948. According to the Bank he returned a cheque for Rs. 25,000, on which the date had been over-written to the person who had brought it to the Bank and did not enter the cheque in the "Cheques Returned Register" nor did he return the cheque with a memorandum of objections. According to the Bank if he had done this the matter would have come to the notice of the higher authorities and the later fraud which was perpetrated would have been avoided. That fraud took place one or two hours after the first cheque had been returned, when another cheque for the same amount was presented and cashed. It was a forged cheque but nobody could detect that it was forged. No other person has been dealt with in connection with this fraud. Ratan Lal, however, himself told the authorities that he himself had returned the earlier cheque. He was arrested but he has been discharged or acquitted.

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According to Mr. Parwana he has been got rid of because of his trade union activities. He did nothing wrong in connection with the actual act of forgery by means of the second cheque and as regards the first cheque, it is contended that he acted according to the prevailing practice, though there might be instructions regarding the entering of such cheques in a register and returning them with a memorandum of objections. Even if Ratan Lal acted contrary to the standing instructions it cannot be said that he acted dishonestly or with undue carelessness. In view of the contention of the Union regarding the prevailing practice it has not been satisfactorily established that all standing instructions are invariably followed in practice by the clerks concerned. We, therefore, direct that Ratan Lal shall be reinstated with effect from the 1st July 1949, the loss of pay for the period of more than seven months being sufficient punishment for his not having followed the standing instructions. We further direct that the reinstatement and payment to Ratan Lal of the pay and allowances due to him since July 1949 shall be made within a month of the publication of this Award.

No. 9. Badri Nath.—He is a member of the working committee and a refugee from Pakistan. He was transferred from Delhi to the Batala branch as an Accountant. The Union represented that he should not be transferred as he had a family of 14 members and his two sisters were at school in Delhi, where with the combined salaries of his father and himself the family could make both ends meet. Badri Nath also asked for cancellation of the transfer order. The Bank, however, did not comply with the request.

According to the Bank, after the partition he was a surplus hand at the head office and he was, therefore, appointed to the "Clearing Branch" and when the work of that branch was reduced he was transferred to the Batala branch. As instead of going there he remained absent he was dismissed. In this case no explanation was taken from Badri Nath. But it appears that the grounds on which he is relying were stated by the Union in their representation to the Bank. Those grounds must be deemed, therefore, to have been considered by the Bank. As a general rule the exigencies of the management and the proper working of the Bank and its branches must override the private needs and difficulties of an employee; and so long as the orders passed are not unreasonable or unduly harsh the Bank has a right to expect compliance from its employees. Simply because Badri Nath has a family of 14 members and two of his sisters are at school at Delhi he cannot expect to be kept at Delhi for all time, and in a case of this nature it would be difficult to substitute our views for those taken by the Bank. There can be no doubt that by remaining absent Badri Nath flouted the orders passed in regard to him and he deserved disciplinary measures being taken against him. But it would seem that in this case some disciplinary action of less severity would have been more appropriate to the circumstances. We think, therefore, that we should leave this case to the discretion of the Bank authorities for a review of their order, so that an order of less severity (*e.g.*, one whereby he may lose his salary for a part or the whole of the period he has remained absent) may be passed.

No. 11. Jaiwant Singh Jain. He was transferred to the Saharanpur branch on the 9th April 1949 and on the 18th August 1949 he sent a letter of resignation which was accepted by the Bank. According to Mr. Parwana he was forced to send this letter but he is unable to produce any communication from Jain to that effect. In these circumstances we see no reason to interfere.

No. 13. Shiv Charan Das.—He was transferred to Amritsar on the 21st June 1949 but he made a representation against the order of transfer which was cancelled on the 27th June, so that he can now have no grievance.

No. 14. Ashwini Kumar.—He was transferred from the Subzimandi branch to New Delhi and his confirmation has been withheld because of adverse reports that were received against him at the different places where he worked. He was told of these adverse reports and warned. He made no protest against the withholding of his confirmation till December 1949. He joined service on 3rd August 1948. The period after which confirmation is usually made is six months. The Bank has stated that in November 1949 it received a 'tolerable report' about him and that his case is still under consideration. That being so, it is unnecessary for us to give any directions.

No. 15. G. P. Gupta.—He was transferred from one department to another in the same office.

No. 16. R. P. Gupta.—He has resigned.

In these two cases it is not necessary for us to give any directions.

No. 17. Padam Singh.—His increment has been stopped on account of an adverse report. His explanation was taken but it was found to be unsatisfactory. According to the Bank the increment was stopped on receipt of a report from his branch to the effect that he was slow in work and indifferent to office orders. He made representations against the orders. Then a certain incident happened. According to the Bank, he had been told by the Branch Manager not to go away immediately when the office was closed but to wait for five or ten minutes for urgent matters. He refused to wait and went away. He was called upon to explain his conduct. He explained after a week that the allegation was not true. Mr. Parwana has not been able to explain why it took one week to give this simple explanation. Mr. Parwana, however, points out that no explanation as to his being slow in work and indifferent to office orders was taken from him. It is clear, however, that this criticism does not apply to his conduct in not complying with the instructions of the Branch Manager to remain for five or ten minutes after the office hours; and we are of opinion that his conduct in this regard was sufficient to justify the stoppage of his increment. We do not, therefore, think that any directions from us are called for.

No. 25. Lachman Singh.—It is alleged by the Union that he was the only peon on the working committee. His grievance is that he has been transferred from the head office to the Sadar Bazar Office which is seven miles from his residence, so that he has to make a long journey both ways every day in order to attend to his work and return home, which is at Daryaganj. His difficulty does not appear to have been brought to the notice of the management. It is not necessary for us to give any directions in a matter like this. The Bank has promised to look into the matter.

No. 27. Subedar.—His grievance is that he was transferred from the main office at Daryaganj to the District Manager's office, Punjab Circle, and again from there to New Delhi which is over three miles from Daryaganj where he lives. He has now been transferred to the main office and he can, therefore, have no grievance.

No. 38. Amar Nath Sharma.—According to the Union he has been denied the increments due to him since 1945. Mr. Ram Sahai on behalf of the Bank says that he holds a power-of-attorney and that when the salaries of power of attorney holders were revised, his salary, which was Rs. 101, was raised

to Rs. 120 with effect from the 1st October 1948. According to Mr. Parwana the earlier scale was Rs. 80—7—150, and since 1945 Amar Nath went on getting Rs. 101 without any further increment until the revision, and if he had got the increments at least for 1947 and 1948 he would have got more when the scale was revised. According to the Bank none of the men who came from Pakistan, Amar Nath being one of them, got any increment for 1947 because many of the people could not be fixed up, this being the general policy of the Bank. There is, however, nothing against him. Recently a very good report has been received regarding this employee. We do not know why it was not possible for the employees who came from Pakistan to get their increments due under the old scale. We think that Amar Nath should be given at least two increments up to the date when the salaries were revised and that thereafter he should be put on the new scale, and we direct accordingly. We further direct that the above directions shall be complied within one month of the publication of this Award.

No. 41. Bal Raj Kapoor.—According to the Union he was denied leave though he submitted a medical certificate. He then protested against his leave not being granted, whereupon the leave was sanctioned. He was transferred from the agency department to the establishment department and again to the agency department. This, according to the Union, constituted harassment. We do not think this is a case for our interference.

No. 48. Birbal Singh.—He was a daftary and it is alleged that duties of servant at the house of the Branch Manager for two years and there he worked for 11 hours daily. Mr. Ram Sahai says that there are strict instructions against such practice and that no complaint was received from Bachan Singh against this. The demand was first presented on the 6th August 1949. The General Manager of the Bank has promised to look into this matter, and we do not think we need pass any orders.

No. 48. Birbal Singh.—He was a daftary and it is alleged that duties of clerical nature were being taken from him since 1947 but that he was promoted to a clerk's post only in June 1949. The demand is that he should be paid as a clerk since 1947. In June 1949, when he was promoted, he was given the pay of Rs. 60, which is the basic pay of a clerk. Formerly, in 1948, his pay was Rs. 46 per month in the agency department in the head office. He made a representation on the 15th of April 1948 for revision of his grade with effect from 1st April 1948. But in the application he did not say that he had been working as a clerk. The Accountant made a report that he was a hard working man and recommended that his grade should be changed from Rs. 33—3—60 to Rs. 55—5—100. Thus there remains some doubt as to since what date, if at all, prior to June 1949 he had been working as a clerk. At the same time the Bank has not cared to traverse the statement made on his behalf that " duties of clarical nature being taken from him since 1947." There can be little doubt that the duties assigned to Birbal Singh were at least predominantly those of a clerical nature since some date at the latest in 1948. We think that the ends of justice would be sufficiently met if he is paid the basic pay of a clerk (subject to later increments) with effect from the 1st April 1948 from which he in his representation applied for revision of his grade to take effect. We direct accordingly. We further direct that this direction shall be complied with within one month of the publication of this Award.

No. 49. G. G. Saxena.—The Bank's case against him is that on 17th August 1948 he was found fast asleep on a chair and that as a disciplinary measure the local allowance of Rs. 10 was stopped for one month. His previous record as regards taking leave also was not satisfactory. He gave an explanation on the

25th August 1948 but it was not considered satisfactory by the Bank. The Union's grievance is as regards the withholding of the local allowance.

According to Mr. Parwana he was suffering from heart disease, and he produced a medical certificate to show this; and his explanation was that when he got an attack or a fit he had to remain quiet with his eyes closed for some time before the attack passed away. We also find it difficult to accept this explanation. The Head Clerk, Bhandari, who saw him sleeping has clearly stated that the explanation is definitely false. We do not interfere except in directing that the withholding of the local allowance for one month should properly be regarded as a fine and that if it exceeds the limits prescribed by the Punjab Trade Employees' Act, the fine shall be reduced to such limits within a month of the publication of this Award.

No. 50. M. P. Garg.—His complaint is that his travelling allowance bill is not paid. The Bank states that it is now prepared to pay the bill. No directions are, therefore, necessary.

PUNJAB NATIONAL BANK

Parduman Chander Dhawan.—The Punjab National Bank Employees' Union complained to this Tribunal on 22nd August 1949 that Dhawan in reverted in May 1947 from his post as accountant to that of a clerk, a new clerk being appointed direct in the vacancy caused by his reversion. It was alleged that the reversion was made without any reason being stated therefore. On the 18th September 1949, however, a letter was received from Dhawan asking for permission to withdraw his application. The application was, therefore, allowed to be withdrawn, and no directions are necessary.

Pyaray Lal Varma.—As he had often to take leave because he suffered from weeping eczema the Bank terminated his services on 18th November 1948. He has represented his case before the Labour Commissioner and it is still pending before him. The Bank's contention is that that being the case no orders should be passed by this Tribunal. We agree and give no directions.

The numbers shown against the employees whose cases have been dealt with below are according to the list given by the Punjab National Bank Employees' Union, Delhi.

No. 7. Shri Gurucharan Das Mahajan,
No. 8. Bawa Kalwant Singh Bhalla,
No. 10. Shri Des Raj Puri,
No. 11. Shri Swaran Dev Berry,
No. 12. Shri Daulat Ram Chawla,
No. 15. Sacchi Ram,
No. 21. Shri Mehr Chand,
No. 25. Shri Anand Kishore,
No. 26. Shri Chaman Lal Sachhar,
No. 27. Shri Panna Lal Anand,
No. 28. Shri Jas Raj Chona,
No. 29. Shri Nandlal Saini,
No. 30. Shri Jagdish Chand Bajaj,
No. 31. Shri Harkrishan Lal Bhatia,
No. 32. Shri Amar Nath Mehta,
No. 33. Shri Vidya Sagar Dir,
No. 34. Shri Mulk Raj Puri,

No. 35. Shri Ram Labhaya Kapur,
No. 36. Shri Jaswant Rai Chadda,
No. 37. Shri Ram Das Mohindra,
No. 38. Shri Dwarka Nath Duggal,
No. 39. Shri Shanti Lal Malik,
No. 40. Shri Jaswant Rai Katial,
No. 41. Shri Rabindra Nath Malhotra,
No. 42. Shri Manohar Lal,
No. 43. Shri Bhagwan Das,
No. 45. Shri Chaman Lal Talwar,
No. 46. Shri Amarnath Handa.

Mr. Puri on behalf of the employees' Union did not press for these cases and no orders are, therefore, necessary.

We now proceed to deal with the cases which were argued.

No. 1. Krishan Dev Shastri.—He was a clerk at the Guna pay office (Gwalior State) and was discharged in May 1949. The Bank has not pressed the question about the Tribunal's jurisdiction in this case.

The Bank's case is as follows. He was appointed in November 1946. In February 1949 he asked for weeks' leave. The Branch Manager reduced the period to one week. On 12-2-49 he wrote that if 14 days could not be granted to him that letter might be considered as his letter of resignation. No order was passed on it then. The one week's leave which was granted was not availed of. On 4-4-49 he again applied for leave from 2-5-49 to 28-5-49. This leave was granted. Before it was granted, however, he wrote on 24-4-49 to the Accountant in charge that if the leave was not granted he was determined to resort to a "fast unto death" as a protest. This letter was forwarded to the Delhi head office. The District Manager concerned at the said office ordered that he might be relieved and his dues settled immediately. Krishan Dev thereupon argued that as his earlier letter had not been acted upon it was not then open to the Bank to act on it. On 4-10-49 he wrote to the General Manager that his case had been taken up by the Punjab National Bank Employees' Union and he mentioned some assurance given to him by the District Manager which as a matter of fact, (according to the Bank) had never been given. On 25-10-49 he threatened to fast in front of the Bank's office unless the Bank pointed out a place where he should fast. These being the circumstances the Bank has contended that it was justified in acting upon his letter dated the 12th February and terminating his services.

Mr. Puri for the Union said that Shastri was a Gurkha and had lost his wife, that he wanted to go to Nepal to perform his wife's obsequial rites and in January he applied for one month's leave in February, and that leave was sanctioned, however, for 15 days and as he was starting on leave the whole leave was withdrawn. Mr. Anand pointed out that in his application to the Bank he had stated that he had taken a vow to visit Nepal at Shivratri and that there was no mention of the wife's death or obsequial rites. He had given his home address as Muzaffarganj and had passed out of Punjab University. According to Mr. Anand the allegation that he (Krishan Dev) was starting on leave in February but his leave was withdrawn is also false.

It is true that the Bank did not act at first on his letter of the 12th February 1949 in which it was stated that if 14 days' leave could not be granted that letter might be considered as his letter of resignation. It seems clear that it was because Dev threatened to fast unto death and again to fast unto death

in front of the Bank's office that the Bank authorities decided to terminate his services. It was hardly necessary, in these circumstances, to ask him to show why the Bank should not terminate his services on those grounds because those grounds were fully known to him. On the facts of this case we are satisfied that it is not one of victimization and does not call for our interference. We therefore, give no directions.

No. 2. Jokhan Panday.—This case was withdrawn by the Union.

No. 3. Gouri Shankar Puri.—He was arrested by the Police in connection with certain fraud and forgery case and was, therefore, suspended. On his being discharged by the Magistrate in September 1949 proceedings were held by the Bank on 20 heads of charges which were served on him on 18-10-49. In his letter dated the 24th October 1949 he said, "I am in no way bound to make a detailed reply to the charges of negligence levelled against me. I request you to reinstate me forthwith." As the matter was still pending before the Bank Puri was directed to submit his explanation to the Bank by 15-2-50, whereupon Mr. Parwana said that in view of this ruling he did not require any orders in this case, particularly as the case was also pending before the Chief Labour Commissioner. He, however, pointed out that Gouri Shankar was still required to attend the office though he did no work there and said that at any rate this practice should cease. The Bank agreed to stop this practice, and no directions from us, therefore, are called for.

No. 4. Ascharaj Lal Budhiraja.—According to the Union while he was an Accountant his pay was reduced from Rs. 200 to Rs. 170 though other Accountant's pay was not similarly reduced. The Bank's case against him is as follows: He was appointed in 1940 and was officiating as Accountant in 1944. In 1945 he was deputed to the National Bank of Lahore, his lien on his post in the Bank being kept. The National Bank of Lahore confirmed him as Assistant Manager and he worked in that Bank till February 1948. On his retransfer to the Bank he was appointed to his former post. His salary was fixed as if he had not gone to the National Bank of Lahore and had earned the due increments during his absence. He was, therefore, posted in the Bank on Rs. 145 per month made up of basic salary of Rs. 95 *plus* Rs. 50 the amount of the increments.

Mr. Puri on behalf of the Union said that the period of his absence from October 1945 to February 1948 was the book period and that he would have got more increments than Rs. 50, being a man of special merit. Mr. Puri cited some instances of employees who had been junior to Ascharaj Lal but were now getting Rs. 200 or more per month. It was suggested by the Union that Ascharaj Lal should have been made an Assistant Manager by this time. He joined the Bank in 1940 and one usually gets the Assistant Manager's post after about 15 years' service; and it does not appear that any prejudice has been caused to Ascharaj Lal by the Bank. There may have been cases in which persons who were junior to him have now become his senior, but though certain instances were cited by Mr. Puri, no suggestions bearing on their case were made in the original demands or in the particulars furnished to the Bank under the Tribunal's instructions, so that it is not possible to test the correctness of the assertions made regarding such cases. No case has been sufficiently made out, in our opinion, for interference by this Tribunal.

No. 5. Gurbachan Singh.—He was a clerk in the Central Office and according to the Union an active worker of the Union. His grievance is that an allowance of Rs. 10 has been denied to him for 11 months from November 1947 to September 1948. This was known as the reconciliation allowance. He

served in Pakistan and after the partition was posted to the agency section of the head office in 1947. His post carried this allowance. His work was inter branch adjustment in this section and the posting of certain amounts and he did this work till September 1948. According to the Bank he now gets Rs. 92 *plus* Rs. 35 dearness allowance plus *Rs.* 15-5-0 as bonus. He was given the work of reconciliation of branch accounts with an allowance of Rs. 10, but was found unsuitable. The Bank has promised to see his record and if he has not been paid for such work he will be paid the amount due, though there is no written representation from him on this point. This does not appear to us to be a case for our interference.

No. 6. Ram Chand Kakar.—He served in Pakistan and was dismissed on the 27th July 1948 after 27 years' service, though he had not reached the age of 55. The Bank's case is that he joined in 1921 as a despatcher and he worked as a clerk thereafter. When his services were no longer required they were terminated after payment to him of one month's salary in lieu of notice. There is nothing against him and the Bank has promised to see if he can be accommodated. Though he had not reached the age of 55 he had put in 27 years' service. As the Bank has promised to see if he can be helped we do not think that any directions from us are necessary.

No. 9. Avinash Chander Thakur.—He was the regional Secretary of the Union and according to the Union he brought to light a fraud committed by the Bank Manager. The Bonus due to him, *viz.*, Rs. 32-8-0 was forfeited in June 1949 and the increment due to him for 1948 was not given. According to the Bank he was responsible for two debit entries for Rs. 3,325-1-0 in respect of the Gandhi National Memorial Fund when there should have been only one debit entry to the account. The Bank came to know of the mistake in time and reversed the entries, but if the mistake had not been discovered there would have been a loss of Rs. 3,325-1-0. There is no doubt that the entry was passed by one Kapoor who was a supervisor but the Bank is right in taking the view that he, being the Accountant, was responsible for all the accounts. According to the Bank the only penalty imposed was the forfeiture of the bonus, while as to the increment for 1948 it has not been stopped and is still under consideration. We think that the mistake for which he must be held responsible was a serious one and the Bank was justified in forfeiting his bonus. No directions are, therefore, necessary.

No. 13. Bal Raj Mali.

No. 14. Ram Itwari.

No. 16. Jassi Ram.

These are menials and they have not yet been confirmed. Their cases were due for consideration but nothing was done as the matter came before the Tribunal. There is, however, nothing in the Act which prevents the Bank from confirming these men and the Bank should, therefore, proceed to consider their cases. No further directions are necessary.

No. 17. Tara Chand.

No. 18. Lajpat Rai Sehgal.

These are similar cases. The Bank stated that if there was nothing against them they would be duly confirmed. We give no directions.

No. 19. Malik Udho Das.—He was in Pakistan and was discharged on 20-4-48. According to the Bank he was a nominee of the Guarantee Broker and was a godown keeper at Jhamke Mandi (Pakistan). The pay office at

which he was working was closed after the partition. On 24th April 1948 he asked for re-instatement but the District Manager said that the pay office in Pakistan showed loss and that no District Manager was prepared to take him. His provident fund including the Bank's contribution was recommended to be paid by the District Manager, but in view of certain facts this was not done. Those facts are that on 9-8-1947 he had released goods worth Rs. 17,000 pledged with the Bank on account of Messrs. Iqbal Singh Kalyan Singh & Co., in Pakistan without receiving any payment, that the Bank had been unable to realise its dues, that a charge to this effect was given to him and explanation was asked for and that his explanation, which was found unsatisfactory, was that he had released the goods against a guarantee letter of the Government's clearing agent Narayan Singh. That alleged guarantee letter has not been produced. As he was careless enough to release goods worth Rs. 17,000 without having received payment on the strength of a letter the existence of which has not been established, we cannot find that the action of the Bank was not justified. We give no directions.

No. 20. Chander Bhan Bhatia.—He has been described as a court clerk (*i.e.*, clerk who attends to litigation work). His complaint is that while he was at the head office, New Delhi, he was discharged on the 28th April without any reasons being given. Later on he was informed by the District Manager on the 10th July 1948 that he had been discharged "as you are not fit for hard work required of a Bank employee". On 11th March 1949 he asked for refund of the security deposit which was paid by the Bank together with the amount due to him out of the provident fund. The present application is dated the 19th September 1949. It is alleged by the Union that there were two court clerks. Bhatia and Suraj Mal, and that Suraj Mal is still working. According to the Bank the work of the Court clerks has fallen considerably and as there was not enough work his services had to be dispensed with. Mr. Parwana states that Bhatia was first in the Law Department, that in May 1945 he was transferred to the office of the District Manager, Lahore Circle, and that after partition he was working under the District Manager, Pakistan Circle at Delhi. In March 1948 he asked for an Accountant's post and his name was marked for such a post. But in April he learnt that his name had been placed on the 'spare' list. On the 22nd April he wrote to the District Manager that his name had been placed on the spare list "as if his services were no longer required" and he requested that he should not be discharged.

Thus it seems that the Bank dispensed with the service of Bhatia on two grounds, *viz.*, (1) that the work which he had been doing had decreased and (2) that he was not fit for hard work. On the 22nd October he informed the Bank that he was prepared to stand a medical test and to give 8 hours continuous duty as well as to compete with the other employees of the Bank and he mentioned his output as 40 letters a day when he had been in the office of the District Manager, Pakistan Circle. Mr. Anand has admitted that Chander Bhan did not leave any accumulations of work at any time; in any case the Manager had not heard of it. It was also admitted that when he applied for an Accountant's post on 8th March 1948, Mr. Sethi, Assistant to the District Manager, had given the following opinion: "Mr. Bhatia is a competent and hard working hand and I have great pleasure in recommending his case for raising his status from the senior grade clerk to that of an Accountant". The District Manager's order was, "His case will be taken up whenever vacancy for the post of an Accountant occurs." It is true that no motive against him

has been alleged and there is nothing to show that there was any enmity or that he indulged in Union activities. According to Mr. Bhatia his duties were to put before the Manager the debtors' and clients letters in the liquidation department which was created with a Manager on special duty in September 1948. He had also to obtain orders on such letters, to write to the debtors and carry on correspondence; and he says that he did not take part in preparing cases for the Court, nor did he attend the Courts since May 1945. Mr. Parwana also produced a copy of Bhatia's letter dated 20th December 1948 addressed to Mr. Yodh Raj, General Manager and Chairman, in which he said, "I am prepared to go anywhere in India and even beyond the boundaries in India for the remaining period". Bhatia would have attained the age of 55 in 1950. He was considered competent and hard working and the allegation of the Bank made before his discharge that he was not hard working seems to be inconsistent. He was specially noted for promotion for the post of an Accountant and shortly thereafter his services were dispensed with. It is difficult to see why this was done; it seems that he has been unfairly dealt with, for *prima facie* he should have been allowed to serve till he attained the age of 55. On retirement he might have been entitled to a gratuity; and before he retired he might have even taken certain amount of privilege leave, having 46 days privilege leave due to him. It is possible that seeing that he was marked for the next vacancy of an Accountant it was in the interest of some one in the office to get him out of the way, and this might be the explanation why for apparently insufficient reasons his services were dispensed with. We think that he would be sufficiently compensated for the treatment meted out to him if he be paid six months salary and allowances within a month of the publication of this Award. We direct accordingly.

No. 22. Ram Parkash Bhalla.—According to the Union he worked at the Kashmiri Gate branch, Delhi as officiating supervisor since March 1948. His confirmation was due in March 1949 but his officiating allowance of Rs. 10 per month was withdrawn with effect from 1st April 1949. According to the Bank the Branch Manager recommended his appointment as Supervisor but this could not be given effect to as there was no vacancy, though he had officiated as supervisor on many occasions. There is nothing against him. Mr. Puri on behalf of the Union however, said that for some months he had not been paid for supervisor's work done by him, *viz.*, from 1st April 1949, till September 1949. These particulars were, however, not furnished to the Bank and the Bank is unable to verify the statement. We direct that Mr. Puri's allegation should be looked into by the Bank and that if Bhalla has done a supervisor's work without being adequately paid therefor, the balance due in respect of such work shall be paid within a month of the publication of this Award.

No. 23. Purshotam Lal Syal.—According to the Union he was an officiating Accountant at the Head Office, where he had come from Pakistan, from 16th April, 1948 and he has not yet been confirmed though there is a permanent vacancy. This according to the Union, is on account of his trade union activities. The Bank says that there is no permanent vacancy. The Officer-in-Charge (West) has ordered that Syal should continue where he is at present till a vacancy occurs. Mr. Puri says that the period of confirmation is six months and that Syal is not confirmed because he is the Vice-President of the Union. Mr. Anand on behalf of the Bank, states that he is officiating in a non-permanent department, *viz.*, the Pakistan Department, that on 29th October, 1949, the District Manager reported that he had become 'spare', giving facts and figures,

but that Secretary West ordered that he should continue where he was. The rule as to confirmation in six months came into force in November 1949 ; before that the period was one year. We direct that as soon as there is a permanent vacancy Syal shall be confirmed subject to any existing rules regarding confirmation.

No. 24. Gurdas Mal.—He was a peon at the Head Office at Delhi and it is alleged that the annual increment which was due to him on 25th May 1949 was not granted to him on the ground that he had attained the maximum. At that time the maximum pay for a peon was Rs. 39 ; now it is Rs. 40, in the scale Rs. 25—½—40. Mr. Puri said that another peon named Dubri was getting Rs. 41 *plus* a Jamadar's allowance. This particular, however, was not furnished to the Bank when the employees were required to furnish the necessary particulars to the Bank to enable it to reply. That being so it cannot be said that the man has any real grievance, and no directions are necessary.

No. 44. *Madan Lal Sabharwal.*—The complaint is that his basic pay since his transfer from Karachi has been reduced. But according to the Bank he was getting at Karachi basic pay of Rs. 55 *plus* Rs. 15, besides Rs. 28 (40 per cent of Rs. 70) as an emergency allowance given to persons serving in Pakistan after the partition. He was given a further increment of Rs. 15 *plus* 40 per cent thereon in consideration of the fact that he was discharging, when at Karachi, double duty in the office and assisting the Manager in the work of evacuation of the staff of the Bank in Pakistan. Thus in Karachi he got Rs. 119 per month when he came to the head office in Delhi he was paid his substantive salary Rs. 70 (Rs. 55 *plus* Rs. 15) and from 1st May 1948 he was granted an increment of Rs. 3 according to the rules of the Bank. He also got a local allowance at Delhi of Rs. 10 along with the other employees. Thus he got altogether Rs. 83. He was promoted to the Senior Grade with effect from 1st May 1949 getting an increment of Rs. 5, and thereafter an *ad hoc* increase in his emoluments of Rs. 7, which was given to all clerks at Delhi, was also granted. Therefore his emoluments, apart from dearness allowance, came up to Rs. 95. He has individually made no representation to the Bank. All that Mr. Parwana could say was that he had done his work under considerable pressure and had to attend to a large number of matters like the granting of loans, staff matters and confidential reports and that he had saved a large number of persons at the risk of his life in Karachi and that, therefore, a promotion of Rs. 100 was recommended in his case, while the head office granted Rs. 15 only. We do not think that he should have any real grievance and we do not wish to interfere.

We now proceed to deal with certain issues which were heard at Dehra Dun because they related to questions peculiar to the Banks and their branches in the East Punjab and Delhi.

Issue No. 29 in the Government Order.—The Union concerned states that the three peons mentioned in the notification have now resigned, so there is nothing left for the Tribunal to do.

Issue No. 15 (b).—Mr. Anand for the Punjab National Bank stated that on the 1st January 1945 the Bank took out a Fidality Guarantee policy, in two parts, from the National Security Assurance Company, in respect of officers and non-officers, the Bank paying the premium. The policy was renewed in 1946 and 1947. During these three years a number of cases of defalcation and misfeasance occurred involving a loss of about 10 lakhs of rupees. The whole amount was recovered from the Assurance Company. Thereafter the Company refused to renew the policies. Therefore on the 27th January 1948

a scheme was devised by the Bank under which (1) the security amounts required from the employees who had to provide guarantees were raised (for peons to Rs. 1,000, daftaries Rs. 2,500 and clerks Rs. 5,000), and (2) where the security for such large amounts could not be found such employees were to contribute to a Guarantee Fund, the contributions being annas 4 per month for peons, annas 8 per month for daftaries and Re. 1 per month for clerks. The Bank contributed like amounts. Trustees were appointed, one of whom was a senior member of the staff. No contributions were refundable. In case there was a loss due to dishonesty, etc., it was to be recovered from the cash security of the person in question and his property and thereafter from the Bank's contribution to the Provident fund of the person in question and lastly from the Guarantee Fund. In the Reserve Bank, however, where there is a Guarantee Fund, the workmen get back their contributions, but the Bank does not contribute anything to the fund. The employees wanted such a provision to be inserted and accordingly the Bank amended the scheme. The amendment provides that on termination of services or transfer to an appointment where guarantee is not required, if there be any amount to the credit of a person, a bonus would be paid and that such bonus would be in the same proportion to the amount standing to the credit of an employee as that which the fund of the group to which the person belongs bears to the aggregate amount standing to the credit of the members of the group in their individual accounts. The Bank continues to pay its own contribution to the fund. There is a further provision that an amount equal to the bonus paid is to be paid to the Punjab National Bank Employees' Association for benevolent purposes in aid of employees, their widows and orphans, etc. This part of the scheme is objected to by the employees. It is said that as a consequence of the introduction of the Guarantee Fund the losses of the Bank have become considerably less. In 1949 they amounted to only Rs. 13,000 and in 1948 to a still lesser amount. On the introduction of the amended rules the security amounts required have now been reduced. For clerks, for instances, they have been reduced to one month's substantive salary.

Mr. Dharam Vir Taneja for the Punjab National Bank Workmen's Union said that the scheme would penalise the majority for the faults of few and was objectionable in other ways also. Mr. H. L. Puri of the Employees' Union wanted the matter to be argued again at Bombay; but none of the representatives of the employees, could suggest a better scheme than the one introduced by the Bank.

A good deal of arguments have been advanced before us at Bombay on the question of the pension and guarantee fund, on behalf of the Imperial Bank of India. Mr. Singh of the Punjab National Bank has joined in the discussion on behalf of his Bank. Three main objections have been raised on behalf of the employees. The first related to the absence of a provision as in the Reserve Bank that the workmen were to get back their contributions. That objection has been met in this Bank by the amendment which I have referred to above. The second objection is as regards payment of an amount equal to the bonus to the Punjab National Bank Employees' Association for benevolent purposes, as it is not clear whether the said Association is representative of a majority, or even a large number of the employees of the Bank. The objection appears to us to be valid. At Dehra Dun the Bank did not take up the question, as in the case of the guarantee fund of the Imperial Bank of India at Bombay, that the fund being a trust property was beyond the jurisdiction of the Tribunal. It would seem, however, that the trustees of the fund in this case do not constitute an independent body, though there is a provision that the fund

should vest in trustees, but that they are subject to the superintendence and control of the directors, at least to a large extent. That is probably why Mr. Anand for the Bank did not raise the question of jurisdiction. In any case we recommend that the provision regarding the payment of an amount equal to the bonus to the Punjab National Bank Employees' Association should be deleted and that the said amount should be put into a separate fund for benevolent purposes in aid of employees, their widows, orphans and dependants to be administered by a Committee consisting of an equal number of persons nominated by the Bank authorities and persons nominated by the employees; and the latter nomination should be made at a meeting held once in three years by persons elected for the purpose at meetings previously held by the employees at the head office as well as by those at the branches, irrespective of the Association of Unions to which they may belong.

Issue No. 16.—This issue concerns the recognition of (i) The Punjab National Bank Employees' Union (East Punjab), (ii) The Bharat Bank Employees' Union, Delhi, and (iii) The United Provinces Bank Employees' Union.

(i) *The Punjab National Bank Employees' Union (East Punjab).*—It was pointed out that the term 'recognition' was used probable for the first time in the Trade Unions (Amedment) Act, 1947, and that the Act had not yet been brought into force. The Union wanted recognition in the sense used in the Act with the consequences stated in the Act, and in any case, it contended that its claim for recognition constituted an industrial dispute. It was, however, found that the Union had not complied with the provisions of section 28 D, clause (d), of the said Act under which, if the Act applied, its rules should provide for the procedure for declaring a strike. It seems to us that it would not be proper, in such circumstances to direct although the Trade Unions (Amendment) Act, 1947 has not yet been brought into force the Bank should recognise the Union in the sense used and with the consequences stated in that Act.

(ii) *Bharat Bank Employees' Union.*—This Union was recognised by the Bank on the 11th November 1948 but the recognition was withdrawn on the 7th December 1948 during the strike declared by the Union. The Union has 455 members out of a total body of 3,000 workers of the Bank. Mr. Parwana tried to show that the Union was confined to the Delhi employees, but the constitution of the Union says that it is open to all employees of the Bank. That being so, even if the Trade Unions (Amendment) Act, 1947, applied to condition (b) stated in section 28 (D), *viz.*, that the Union should be representative of all the workmen employed by the employer, has not been fulfilled. Condition (d) in the said section also has not been satisfied. All that the President of the Union could show was that on the 11th January 1949 the General Council had passed a resolution that a strike should be resorted to as a last measure and that it might be declared jointly by the President and the Secretary. This cannot be said to constitute the provision of sufficient procedure for declaring a strike in the rules of the Union. For such a rule should at least provide for the giving of a notice to the Bank, the period of such notice and consideration of any action taken or proposed to be taken by the Bank. Even if, therefore, the Trade Unions (Amendment) Act applied recognition of the Union could not have been directed. We, accordingly, reject the demand of the Union.

(iii) *United Provinces Bank Employees' Union.*—There was no representative of the Union present and at Lucknow the Union's representatives expressed their desire that their case or recognition should be taken up at Bombay. No orders, therefore, need be made in this behalf in this Award.

The Allahabad Bank Employees' Union.—This union also claimed recognition though that Union is not mentioned in Schedule II to the Government Notification of the 13th June. Its membership is 106 out of a total staff of 160, so that it is no doubt representative in character. The Union representative read out a passage from an Award by Mr. S. P. Varma on an industrial dispute between Messrs. Talcher Coal Fields Ltd., and their workmen, wherein he has referred to the remarks of the adjudicator in a dispute between Messrs. Robert McLean & Company, Ltd., and their employees, published by an order of the Government of West Bengal, dated the 22nd January 1948 in the Calcutta Gazette. The learned adjudicator had observed that "nothing but advantage can accrue to the Company by recognising the Union" and he had directed that the Company should recognise the Union. Following this decision Mr. Varma stated in the dispute before him that the Company had not been able to substantiate its charge that the Union was indulging in illegal strikes and the Company could not disprove the fact that the Union counted among its members the majority of the workers, and he, accordingly, directed that the Union should be recognised. Mr. Dayaldas for the Union admitted that the Union had made no rule as required by section 28D, clause (d), of the Trade Unions (Amendment) Act, 1947. In this case also, therefore, the Bank cannot be directed to recognise the Union.

The Allahabad Bank Employees' Union, Delhi Branch, claimed overtime allowance for the extra work the workmen had put in at the half-yearly closing of the Bank on the 31st March 1949. They were entitled to such allowance for working after 7-30 P.M. on that day. Mr. Dayaldas on behalf of the Union said that the management had kept a sum of Rs. 250 for overtime allowances, but that the allowances calculated on the number of extra hours actually put in amounted to about Rs. 350, that the management tried to persuade the workmen to reduce their claims but that on this suggestion being refused Murarilal, Assistant Accountant, who had been deputed to supervise the overtime work, made remarks on the attendance register reducing the number of hours of work showing against the names of the workmen concerned. It was said that instead of sitting in the Bank for the whole of the night when the work was going on Murarilal left at 6 or 6-30 P.M. According to Mr. Dayaldas an allowances of Rs. 261-6-10 was offered to the workmen but all of them, except six men, refused the offer.

As to the facts Mr. Amarnath Khanna, Accountant of the Bank, who ordinarily would have supervised the overtime work, was examined. He said that owing to his illness his assistant Murarilal was deputed for the supervision work. At first he denied the allegations made by Mr. Dayaldas but later on stated that the evidence given by him earlier was incorrect, and that the workmen's claim based on the original timings as shown in the register was correct. We, therefore, direct that the workmen's claim to allowance for extra work on 31st March 1949 should be paid according to the hours originally shown in the register kept for the purpose.

The workmen of the Bharat Bank who struck work during the period from 3rd December 1948 to 9th December 1948 and from 9th March 1949 to 20th March 1949 have claimed that they should be paid their full wages and allowances for the said strike periods. According to Mr. Parwana on the 4th October demands were made to the Bank authorities but nothing was done and on the 22nd October a reminder was sent but there was no reply. On the 3rd November there was another reminder in which it was said that unless a reply was received by the 10th November there would be a strike ballot and that the Union

would carry out the mandate received with effect from the 3rd December 1948. To this also there was no reply. A number of people were, however, transferred, for instance, the President was first sent to Nagpur and then to Sadarbazar, Delhi, and then to the office of the District Manager, Punjab Circle. Badri Nath a member of the Working Committee was transferred to the Batala branch and A. C. Chauhan, a founder member of the Union, was transferred to Nagpur and from there to the Punjab Circle. All this, according to Mr. Parwana, was an attempt to harass and weaken the Union. On account of this harassment notice of an earlier strike was given and that strike commenced on the 11th November 1948. On that day, after one hour's strike, the Union was recognised by the Bank and an assurance was given in writing that there would be no victimization. On the 27th November 1948 the Negotiating Committee met the authorities, but with no result. Therefore a strike was commenced on the 3rd December 1948. The matter having been referred to the Chief Labour Commissioner the dispute was referred for adjudication on the 9th December and under section 10(3) the continuance of the strike was prohibited whereupon it was called off. That is the version of the Union of the events leading up to the strike which commenced on the 3rd December. Mr. Anand for the Bank has contended that there was no reason for the strike at all as on the 8th November 1948 the Bank issued a circular to the effect that the question of emoluments would be considered and if given would be given with effect from 1-10-1948, so that after this day the Union as such should have had no grievance, their main demand being for greater emoluments. But still, he said as Mr. Parwana had been transferred the strike was actually commenced on the 3rd December. This is apparent, according to Mr. Anand, for on the 10th November 1948 the Union gave a notice which referred to Mr. Parwana's " victimization " and stated that its demands must be satisfied by the same evening, which was an impossible demand. On the 29th November the Bank wrote a letter to the Union saying that at the meeting between the Union and the Bank authorities a new demand had been presented that no one who was on the Working Committee should be transferred, all its members being indispensable to the Union, that the Bank had suggested a reference on this question to the Labour Commissioner, and that to this suggestion the Union had not agreed. The circular of the 8th November was given effect to on the 29th November 1948 and on the latter date the Labour Commissioner was informed of this. On the 2nd December the Bank also wrote to the Director of Industries and Labour as to what had taken place. On the 7th December 1948 the Bank's recognition of the Union was withdrawn and on the same day the Bank intimated to the staff that the management was prepared to pay them salary for the strike period if those who had gone on strike rejoined their duties by the 8th December 1948. Therefore, according to Mr. Anand the Union was not justified in going on strike. After the letter of the Bank dated the 29th November the Union in their letter dated the 2nd December 1948 wrote, " The Union considers your charges as false, vexatious and malicious " and " we shall reply in detail later on ". No such reply however was given.

The main contention of the Bank was that as on the 29th November the emoluments were revised with effect from 1-10-1949 the Union had no legitimate ground for going on strike. The Bank also appears to be correct in the statement that at the meeting which took place between the Bank authorities and the Union on the 27th November the Union put forward a new demand which had not been made before. It seems to us that merely because the President had been transferred elsewhere and this new demand was not granted the Union was not justified in going on strike on the 3rd December. We, therefore, do not

think that for the period of the strike the workmen should be allowed their emoluments.

As to the strike from the 9th March to the 20th March 1949 we have already stated in our award regarding the victimization cases relating to this Bank that neither the Union nor the Bank was free from blame in respect of the facts leading up to the strike. We have, however, given a direction as to the reinstatement of such of the persons as were discharged and allowed them relief as to pay and allowances for a certain period. We are unable to hold that any further relief should be granted for the period of the second strike.

K. C. SEN,
Chairman,

J. N. MAJUMDAR,
Member.

BOMBAY ;
Dated the 22nd February 1950.

(*Vide* Gazette of India Extraordinary, dated March 23, 1950, pp. 1071—1094.)

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(9)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 4th April 1950.

No. LR-90 (8)/I—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. D. J. Ladha of the Laxmi Bank Ltd., Akola (Madhya Pradesh).

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

The Laxmi Bank, Limited Akola

AND

D. J. Ladha.

In the matter of alleged victimisation.

Appearances.—Mr. B. S. Agarwal, Assistant Secretary, Laxmi Bank, Ltd., for the Bank,
Mr. D. J. Ladha in person.

AWARD 293

The following case of alleged victimization was heard at Nagpur on the 11th March 1950 :—

The complaint of Mr. D. J. Ladha, a clerk dismissed from the Head Office of the Laxmi Bank at Akola on 8-1-1949 was as under : He had been confirmed as a clerk in 1945. In January and February 1947 he tendered his resignation thrice, but the resignation was not accepted. In January 1947 the Central Bank, Akola branch, had offered him a cashier's job. In one of his applications he stated that being unwilling to work in the record *Khata* which had been assigned to him he wished to resign. Some time later he wanted an advance from the bank but when it was refused he left the office on 13-6-1947, as he was roughly and discourteously treated and told to leave the office. He never came back to office. Five days later he wrote to the bank that he could not return to duty unless he was asked to rejoin. On 8-1-1948 he received orders that his services had been terminated with effect from 5-7-1947.

The Bank's case is as follows : He was an unwilling worker, quarrelsome and often insubordinate. On 13-6-1947, when his request for an advance was turned down, he created an unpleasant scene and had therefore to be told to leave the office. This did not mean he was told never to come back to office again. He remained absent till 27-6-1947 and thereafter attended office till 4-7-1947. From 5-7-1947 he never cared to attend, apparently because he tried to get jobs elsewhere. In 1948 he got a job in the Rajasthan Printing Works where he worked for 3 months. He is now working in the firm of Messrs. Suganchand and Co. The bank authorities waited for his return till 8-1-1948 (more than six months) and then passed orders regarding termination of his services as he could not be shown indefinitely as an absentee clerk.

Ladha denied that he ever attended office after 13-6-1947. But the Bank's muster roll clearly shows his signatures against June 28 and 30 and July 2 to 4 (June 29 and July 1 being holidays). In his letter of 18-6-1947 to the bank he said that unless he got any reply he would be " constrained to take legal refuge ", but he never did so. He admits that there was an exchange of " hot words " between himself and the Secretary of the bank on 13-6-1947 when the bank authorities refused him an advance on the ground that it was a matter within their discretion. According to Mr. Agarwal, Assistant Secretary of the Bank, who appeared before the Tribunal, the Secretary told him (Ladha) to go to his chair, he went there shouting all the time, and when Mr. Agarwal told him to stop shouting he said, " I shall see how the Secretary refuses me an advance ", whereupon he was told, " Either get out of the office, or a peon will be told to take you out of the office ", after which he went out shouting.

Ladha admitted that he saw the General Manager after 18-6-1947 and that the General Manager had no grudge against him, but says that he did not get the bank's letter of 8-1-1948 informing him that his services had been terminated. The bank's despatch register, however, includes this letter among the letters despatched on that day. Ladha further says that he went to see the General Manager (who signed the order regarding the termination of his services) to discuss matters unconnected with his present grievance. He said finally that the bank had been indulging in malpractices, that he discovered this and brought it to the General Manager's notice and that he was, therefore, got rid of. At the same time he admits that none in the bank took him to task or threatened him on this account and says that he has not spoken of this matter to anybody but the General Manager up till now.

It is clear that this is not a case in which we should interfere. Ladha clearly went back to his work after 27-6-1947 and attended office thereafter upto 4-7-1947. Why he absented himself for over six months thereafter is not clear; he was probably looking for a job. In any case even though he was told to leave the office on 13-6-1947 it cannot be said that he was ordered not to return to it or prevented from returning, as the fact that he did attend on 28-6-1947 and subsequent days sufficiently shows. It is clear that all his statements cannot be regarded as reliable, and the *bona fides* of the bank are sufficiently shown by the fact that no order against him was passed for over six months after 5-7-1947 from which date he absented himself. We do not think that this is a case in which we should interfere. We, therefore, make no directions in this case.

(Sd.) K. C. SEN,
Chairman.

(Sd.) J. N. MAJUMDAR,
Member.

(Sd.) N. CHANDRASEKHARA AIYAR,
Member.

BOMBAY:
Dated the 24th March 1950.

S. C. AGGARWAL,
Deputy Secretary to the Government of India.

(*Vide* Gazette of India, Part I, Section 1, dated April 15, 1950, pp. 64-65.)

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(10)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th April 1950.

No. LR-90(9)/I.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. T. P. Malaviya of the Bharat Bank Ltd.

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bharat Bank, Limited

AND

T. P. Malaviya

In the matter of alleged victimisation.

Appearances :

Mr. R. N. Seth for the Bank

Messrs. J. N. Mehrotra, K. C. Gupta, A. C. Kakar, Harmangal Prasad, S. D. Misra, Padamchand, K. N. Mehrotra, Bukumchand and R. M. Tandon of the U. P. Bank Employees, Union for Mr. T. P. Malaviya.

AWARD

The above case was heard at Lucknow on the 23rd December, 1949.

Malaviya was working as a Sub-Manager of the Lucknow Chowk branch of the Bank. This branch ceased to exist on the 14th August 1948 and his services were transferred to the Hazaratgunj branch at Lucknow. On the 6th October 1948, he was transferred to the Kanpur branch as an Assistant Manager. Although this order was in contravention of the U.P. Government order No. 5890 (ST) XVIII-142 (ST) 48, dated the 23rd September 1948 he did not take any exception to it as he was an old employee and he joined the Kanpur branch on the 5th November 1948. From there he was sent to Fatehpur where he worked as Controller of Shree Maheshwari Rice and Oil Mills. He protested unsuccessfully to the Bank against this transfer. He then made a representation to the Labour Commissioner, but as he got no reply till the 10th November 1948 he proceeded to Fatehpur. While working at the Mills he fell ill and went on leave on the 24th January 1949. While on leave he made several representations to the Bank authorities pointing out difficulties in working in the Mills and he wanted a transfer to Bank work, but without any result. As another man was posted in his place at the Mills, he enquired about the place where he should join on the expiry of his leave but he got no reply. He then again made a representation to the Labour Commissioner who expressed his inability to interfere as he had accepted the post of Controller of the Mills. As soon as the Mills were closed, while he was still on leave, he got a letter from the Bank dated the 12th May 1949 intimating him that in view of his unsatisfactory work it had been decided to terminate his services. On receipt of this letter he wanted to know in what respect his work was found unsatisfactory and under what rule such drastic action had been taken, but he received no reply. It is contended on his behalf that though his designation was that of a Controller he was only to look after the storage and delivery of the stock which duty could be performed by the godown keeper. His complaint is that he was given no particulars of

the grounds of his dismissal nor was he afforded any opportunity to offer any explanation, and that his services have been dispensed with, leaving a blot on his record, at a time when, due to his age, it is difficult for him to secure another job. He has asked for various reliefs.

The Bank has filed a statement and contended that he was an Officer and, therefore, the Tribunal has no jurisdiction, that while he was Sub-Manager at the Lucknow Chowk branch his work was found unsatisfactory, in that on one occasion owing to his negligence an outward bill for collection for Rs. 278-4-6 was paid twice over to the customer, that when the Chowk branch was closed he was temporarily attached to the Hazratgunj branch to settle the outsanding matters of the Chowk branch and that when those were settled, though he became a surplus hand, in order to keep him in appointment he was transferred to Kanpur as Assistant Manager. It is further stated that as he took leave he was deputed to act as Controller of the Mills because an experienced man was necessary there; and that after working there for a few weeks he took leave from time to time and went on requesting the Bank for his transfer to Kanpur or Lucknow. It thus appeared to the Bank that either he was unwilling to discharge the duties entrusted to him or his health was too poor; and his services were, therefore, dispensed with after giving him one month's salary in lieu of notice.

If we consider the reasons mentioned in the Banks' statement (which were not stated in the letter of dismissal) as reasons for the dismissal we are constrained to come to the conclusion that they are not the true reasons, or even if they were, dismissal on those grounds cannot be justified. The unsatisfactory work alleged in the statement of the Bank was the payment by him of Rs. 278-4-6 twice over to a customer when he was the Sub-Manager of the Lucknow Chowk branch. The fact that he was continued in employment at Hazaratgunj and Fatehpur, although he is now stated to have become a surplus hand, sufficiently negatives the Bank's case, in our opinion, about his alleged unsatisfactory work. The Bank admits that he was retained on account of his experience. His repeated request for transfer to Bank work, which in our opinion was a legitimate request, did not find favour with the management, his approach to the Labour Commissioner in respect of this matter was not liked by it and there might be other reasons of which we are not aware; these appear to have led to his dismissal on the pretext of the unsatisfactory nature of his work. It would be pertinent to point out that the Bank did not supply him with any particulars when he enquired about the alleged unsatisfactory nature of his work.

Our attention has been drawn to a typed letter dated the 10th November 1948 addressed by the Manager appointing him the Controller of the Mills wherein it has been stated that his designation in bank services remains unchanged. He has stated that when he was transferred to Kanpur as Assistant Manager he did not hold an independent charge of the office with powers to appoint and dismiss any employee of the Bank, that he had the power merely to supervise the office routine and as such he was a workman as defined in the Industrial Disputes Act, and that similarly as Controller of the Mills he was not given complete charge of the Mills but had simply to supervise storage and delivery of the stocks and as such he was a workman. The Bank, on the other hand, has stated that when he was transferred to Kanpur and posted as Controller of the Mills his designation and remuneration remained those an officer. But the Bank has not disputed his statement about the nature the work that he had to do either in his capacity as Assistant Manager of

Kanpur or as Controller of the Mills. At the bottom of the letter of the 10th November 1948 already adverted to, there is something in writing in the nature of an acknowledgment over the signature of Malaviya. It has been alleged on his behalf that this writing is a forgery and that it was not in existence when Malaviya put his signature to this letter. We do not think that this writing has any direct bearing on the question we are considering and the view we have taken about jurisdiction. It does not, therefore, appear to us necessary that we should express any opinion as to this writing. No evidence has been adduced on behalf of either of the parties to prove the nature of Malaviya's duties. We have, therefore, to proceed on the statement on record; and we do not find that the allegation of Malaviya as to the nature of his duties has been disputed by the Bank. We are inclined to hold that he was a workman. Accordingly we direct his reinstatement within a fortnight from the date of the publication of this Award and further direct that he shall be paid, within the same period the salary and other allowances he would have earned during a period six months.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA AIYAR, *Member.*

BOMBAY :

Dated the 30th March 1950.

S. C. AGGARWAL,
Deputy Secretary.

(Vide *Gazette of India*, Part I, Section I, dated April 22, 1950, pp. 87-88).

NOTE.—Original copies of the awards, which have been submitted to the Government of India but not yet published have been put (only in the first copy) in Appendix IX to the award. One copy each of Tribunal's order's in respect of section 33 matters has been put in Appendix IX to the award (only in the first copy).

[No. LR. 90 (43).]

K. N. SUBRAMANIAN, Joint Secy.

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